Barry Fights the Court *Alexander M. Bickel*

THE NEW REPUBLIC

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Warren Report

Case for the Prosecution

Murray Kempton

UNIVERSITY OF VERMONT
OCT 5 1964

China and the Bomb — *The Editors*

The Italian Girl — *Honor Tracy*

Two Party Press? — *Ben H. Bagdikian*

Sartre on Sartre — *Jean Daniel*

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T.R.B. from Washington

Miller's Two Pay Checks

★ Look down, stranger, on the Congressman speaking against a tariff bill on the floor of the House. He strikes his chest in emphasis, pours out his heart; his colleagues nod soberly and the galleries feel the touch of his eloquence as he says he speaks only to defend the interests of neighbors in his own beloved constituency. How stirring our democratic government is.

But suppose you knew that this Congressman had received a cash recompense from a group in his home town to take its part. Would you feel the same? Or going further, suppose you learned that the vehement Congressman was actually in the pay of the interested party, receiving monthly checks to supplement what you and I pay him as a servant of the voters. How would you react?

As you survey Congress you know that some of them do receive this extracurricular pay; maybe not many, but enough always to leave that little shadow of doubt whom the man is speaking for; who hires him; whose voice it is. The subsidy pay or secret conflict of interest is more frequent, of course, in state legislatures.

Our standards of ethics are, indeed, pretty slack. It does not seem to shock many people, or receive much newspaper attention, that a man is running for the Vice Presidency who regularly gets a pay check from a client-factory in his constituency whose interests he has defended on the floor of the House without revealing his financial connection. It seems hardly possible that Mr. Goldwater would have picked the inconsequential Representative William Miller of New York as his running mate, if he had known the facts.

Back on July 23, 1956, Mr. Miller made a speech on the floor against a tariff proposal that would have adversely affected the felt-papermakers industry in his upstate New York area. He helped defeat it. On February 4, 1958, he took the floor again, but this time his arguments were overruled.

On September 7 last, in a press conference at the Pick Oliver Hotel at South Bend, Indiana, reporters heard Mr. Miller say that the Lockport Felt Company of Newfane, New York, of which he is secretary and director, regularly paid him a salary. Did the reporters get their facts wrong? No, because Mr. Miller's own staff put out a verbatim transcript of what he said: "My salary from that company is $7,500 a year." He has been on the payroll since about 1946, it is learned.

It is a curiosity of this election that all three members of Congress who are running have now bared their financial holdings, as has Mr. Johnson. Probably it will always be done from now on. Some reformers in Congress have tried to get colleagues to bare all their interests. We would not have known that Mr. Miller was a lucky two-salary Congressman if he had not been tapped for the Vice Presidency, one of the most startling acts Mr. Goldwater ever performed. You and I can't afford to hire a Congressman at $7,500 a year. If you feel, however, that there is anything unethical in the practice, put your doubts at rest. Mr. Miller is an authority on delicate matters of etiquette and ethics; he is so sensitive that he can hardly utter a speech without deploring the Democrats' morals.

Character vs Corruption

★ The issue of the campaign, he says, is "character *vs* corruption." His oratorical style is arresting, it must be admitted. Besides his words he has a nudge-and-wink manner in which he seems to say, "come outside, I'll tell you more!" A very curious character indeed to be thought of as a possible President of these United States.

After the election is over (which can't be a bit too soon for us) there is going to be an extraordinary search for identity in both parties. Republicans are likely to end up a couple of million dollars in the red, and the fight for party control after Mr. Goldwater's expected defeat will involve taking over the deficit. The Goldwater group in control are funneling it out to their own pets, we learn; the GOP Congressmen fighting for election report that they can't shake money loose from national headquarters unless they swear eternal fealty to the chief.

Mr. Johnson's own party must search for its identity, too. What a queer company TRB finds himself in! Here is the Hearst press on our side, and Henry Ford II, and Lew Douglas, and Marion B. Folsom and Oveta Culp Hobby, and Ike's former Secretary of the Treasury, Bob Anderson, and we don't know what other stout conservatives and budget-balancers. Well, well, it's going to be terribly cozy being in there with the Scripps-Howard and the Hearst press in the years to come, and we can't wait to see who kicks whom out of Lyndon's nest.

Cranks and Guns

★ Almost any serious crank willing to give his life can kill the President. Every fifth President has had an attempt on his life, and five have died. A crank can usually get a gun at the nearest hardware store or, like Oswald, by mail. We have wondered how far the emotion over JFK's death would be channeled into reform. Not far, it seems. Congress is not going to start an amendment this year to fill a Vice Presidential vacancy. As to firearms, a bill to control mail order sales has got nowhere, faced with stonewall resistance from the National Rifle Association. In no other country are firearms so available. Control will be a slow process, of course, though even a slight obstacle might stop a crank. Still, control would interfere with the firearms business and it might be just easier to go on losing a Kennedy or Lincoln now and then rather than exert ourselves.

★ *Notes:* An informant in Benton Harbor, Michigan, saw a "Choice Not an Echo" Goldwater sign on the left rear bumper ahead, and "Prepare To Meet Thy God" on the right rear bumper.

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China and the Bomb

Anticipating China's entry into the world atomic club, Defense Secretary McNamara extended her the following doom-laden welcome: "Our Strategic Forces are and will remain sufficient to ensure the destruction of both the Soviet Union and Communist China, under the worst imaginable circumstances accompanying the outbreak of war." China after exploding her atomic device still will need some years, perhaps five or even ten, to acquire the warheads and the systems for delivering them on their targets that qualify a country for the doomsday club. But if and when she has done all that, what will China have gained? It is true that a full-fledged member can destroy any other member or even, in the case of the United States, any other two members. But there is an important proviso which Mr. McNamara neglected to mention. A member can do this only by paying the ridiculously high price of national suicide. There are no exceptions to this club rule. It applies to the US, to Russia and to China and any other country daft enough to join. China's efforts to achieve nuclear capability can, at best, be crowned by stalemate. Possession of nuclear weapons purchases only the power to (possibly) deter nuclear attack, by threatening nuclear retaliation. China is not at the moment in danger of nuclear attack, so by acquiring nuclear capability she is not really changing the *status quo*, for once she has atomic weapons she will find that she, too, cannot possibly attempt to use them without the certainty of being destroyed if she does. The US and the Soviet Union have been able for years now to sting each other to death, but as a consequence they have been gradually led, by their mutual distaste for mutual suicide, to enter into pacts and to establish communication links which will, they hope, at least protect them against suicide by inadvertence. The chances are strong that China in time will be pulled willy-nilly along the same path. Unfortunately, the chances are even stronger that in the meantime one of China's neighbors with the resources for the task, India and Japan and Australia, will decide that they too must have nuclear capability. The temptation will certainly be great. If anyone succumbs, the nuclear arms race will be on again – in any case, France threatens to hold more atmospheric atomic tests. The only way to end the arms race is not just to halt it but to reverse it, and this President Johnson promised last week to try to do, by proposing new initiatives for effective arms control. With this in mind, Mr. Johnson very well may visit Europe almost as soon as his election is certified. If he does, he very probably will see Gen-

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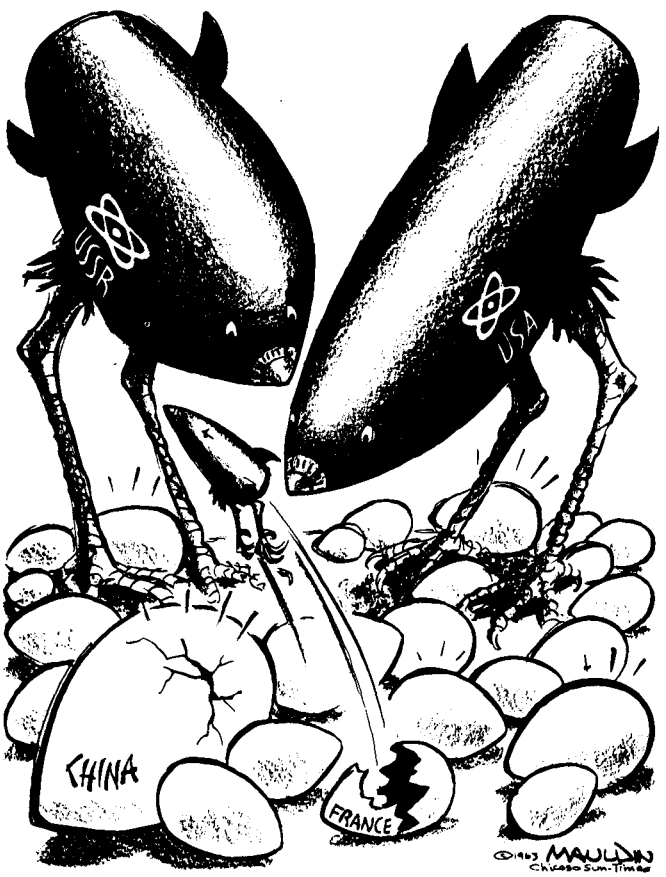
eral de Gaulle, and may arrange as well to see Khrushchev (who himself proposes visiting West Germany).

In an article in the October *Scientific American*, two distinguished American scientists, Jerome B. Wiesner and Herbert F. York, explain very clearly how as the atomic powers' military strength has grown, so their security has diminished. Military strength has grown beyond imagination: a single US infantry division in Europe has the nuclear fire power to destroy the combined populations of the 50 largest US cities, and a mere 10 megaton nuclear bomb is the equivalent of all the high explosives used in all the wars there have ever been since gunpowder was invented. Moreover, this million-fold increase in destruction can be delivered to any target anywhere on earth in 30 minutes. Wiesner and York say there is no defense against those missiles (deterrence is not defense) and conclude that "the clearly predictable course of the arms race is a steady open spiral downward into oblivion." For the moment, the downward spiral has been halted, by the test ban treaty of last year, and Wiesner and York say the next logical step would be a comprehensive test ban, to include underground tests.

The atomic powers came close to it more than once in the past 10 years. But what is happening now? The Russians resist even the very reasonable degree of inspection that would make a comprehensive test ban feasible. But they propose to urge on the United Nations, once more, the virtues of a ban on the use of force in settling frontier disputes. This sounds admirable, except that it is too transparently aimed against China, which lays claim to chunks of Soviet territory; and it did not inhibit the Russians from vetoing a UN resolution condemning Indonesia's attacks on Malaysia. In Europe, not only do the French seem determined to ignore the test ban treaty and pollute the atmosphere with their nuclear tests, but the Germans sometimes give an unfortunate impression of being ready to help the US with problems elsewhere – for instance, in the Far East – on the condition that the US stays in Europe and uses its military strength there to help reunite Germany. The US, it sometimes seems, has Germany's permission to try for a *detente* with Russia, but only after due consultation with the Bonn government. Finally, the NATO countries except France are currently considering cementing the Western alliance by means of 140 nuclear megatons, to be placed in the keeping of a fleet of ships with mixed crews, with the Germans playing a leading part. When the Russians and the Eastern Europeans object that to them this looks dangerously like giving the Germans nuclear weapons, there is a Western tendency to retort that the Soviet Union should think itself lucky to be confronted with a multilateral nuclear force rather than with medium-range ballistic missiles in German hands on German soil, with US nuclear warheads.



Unplanned Parenthood

Western unity is good, the more of it the better including military unity. But the West should not drift into seeming to have to choose between its own unity and a possible *detente* with Russia. Unity should be pursued in other ways besides building an MLF – for example, along the lines of political union that Bonn has itself proposed – and simultaneously the West ought to continue trying for a *detente*, and for disarmament. The giant Chinese firecracker has made this still more imperative, if that is possible. At the same time, it also makes it plainer than ever that sooner or later the Chinese have to be included in those discussions. Mr. Johnson may or may not prove to have a taste for summitry; but, if he does, the prospect now is not for one summit, but two.

The Cigarette Lobby

Smoking and Health, the Public Health Service report which stated that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action," came out last January. To date, scarcely anything that might be considered "remedial" has been undertaken, and even less appears to be in the offing. The Department of Agriculture has

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started a $2 million research program aimed at developing safer tobacco; the tobacco industry has found a strange but willing bedfellow in the American Medical Association and has given the AMA $10 million for various tobacco research studies; and the PHS is spending $266,000 on studies on why people smoke and how they might be persuaded to stop. But cigarette sales have bounded back to normal, following a sharp drop immediately after the report, and tobacco industry executives are reported to feel that they have weathered the worst of it.

In the eight months since cigarette smoking was branded a public health scourge, the tobacco industry has amply demonstrated that it knows how to look out for itself in Washington politics. The goal of the industry has been to impede any government effort to detach smokers, and so far it has succeeded, with a tactical brilliance that commands admiration.

The industry couldn't very well cry foul at the time *Smoking and Health* was issued, since, along with various voluntary health organizations, it had been given a veto power over the study's membership. (In a curious manifestation of "political" science, membership was denied any scientist who had previously committed himself, pro or con, on the subject of tobacco and health.) But once the report was out, the industry set about repairing the damage.

When it became apparent that the Federal Trade Commission was about to issue regulations that would require cigarette packages and advertising to carry health warnings, the industry quickly assembled an advertising code and pleaded the virtues of self-regulation. The contemplated warning on each package – along the lines of "cigarette smoking is dangerous to health and may cause death from cancer and other diseases" – is considered to be critically important for achieving any mass reduction in cigarette consumption. Smokers obviously like to forget, and many public health authorities feel that a warning has to stare them in the face whenever they light up, if an anti-smoking campaign is to be successful. When the FTC actually issued the regulations, to go into effect January 1, the industry turned to tobacco state Congressmen, who pressured the FTC into delaying the effective date by six months. The delay was at the request of Rep. Oren Harris (D, Ark.), chairman of the House Interstate and Foreign Commerce Committee, who said that it might be preferable to handle the matter through legislation rather than by administrative decree. Harris' committee held extensive hearings on the regulation issue last spring, but he intends to open another round of hearings next year.

A few weeks ago, the Public Health Service went before the House Appropriations Committee to request $1.9 million for research and educational programs on the hazards of smoking. Forty-two Congressmen, most of them from tobacco states, expressed their disapproval in a petition to the committee, and the budget request was turned down.

Reapportionment Rider

The Senate finally got rid of the Dirksen rider concerning postponement of legislative reapportionment. The Senate passed, 44-38, a substitute, sponsored by the Majority Leader, Mike Mansfield, which was itself also a rider – and hence still objectionable on that ground – but which was otherwise sufficiently different to be acceptable to the liberals (save Wayne Morse), who had so strenuously fought Mr. Dirksen's original proposal. The votes cast against the substitute were those of Mr. Dirksen and his supporters.

The new text – which goes into a Senate-House conference committee, where its chances appear to be good – is a "sense of the Congress" provision, advising the courts to grant certain postponements, rather than commanding them to do so. The Dirksen version purported to issue a command. And the Mansfield substitute recommends postponements for shorter periods than Mr. Dirksen favored; namely, up to six months, but no more, with the six months presumably starting to run on the day the President signs the foreign aid bill of which this language forms part. The new text goes on to recommend also that courts permit states which have not yet reapportioned to conduct this November's regularly scheduled elections on the basis of existing apportionments. It omits, as did Mr. Dirksen, any reference to a possible constitutional amendment modifying the one person, one vote rule. Again like the Dirksen proposal, the new text affirmatively directs the courts eventually to undertake the reapportionment of recalcitrant legislatures.

There was more exaggeration and oversensitivity than substance all along to the argument that the Dirksen rider, with its mandatory language, was an unseemly insult to the federal judiciary, and even, perhaps, unconstitutional. The courts will pay very nearly as much heed to a modest and moderate "sense of Congress" resolution as they would to more mandatory language. Thus one may hope that a most extreme order issued by a federal court in Connecticut will be rescinded in deference to the explicit views of Congress. The court in Connecticut, having earlier given the legislature a very short deadline by which to reapportion itself, which the legislature was unable to meet, on September 24 simply called off the November 3 election for state legislators – much to the relish of the Republicans, who had no stomach for running on the same ticket with Barry Goldwater anyway.

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Aaron Henry and His Friends

It Takes Guts To Work for LBJ in Mississippi

The Mississippi Freedom Democratic Party, which is mostly Negro, achieved notoriety at the Democratic National Convention and is now campaigning in Mississippi on behalf of President Johnson. It is, of course, the only discernible group doing so. Defying the state's racists to do their worst, the group plans political rallies for nearly every Mississippi community, as well as door-to-door canvassing by small groups.

The leader is Aaron Henry, probably the best-known Negro in Mississippi. At age 42, he is older than most of the civil-rights workers in the state. He is president both of the Council of Federated Organizations, which carries the banner for all civil-rights groups active in the state and which has a continuing program of Freedom Schools and voter-registration drives; and of the state NAACP. Henry is friendly, tough and articulate.

Some civil-rights observers fear that violence may be more widespread in Mississippi this fall than it was during the summer. With the departure of several hundred young white volunteers who worked on the "Mississippi Summer Project" (of which the names Schwerner, Chaney and Goodman are the symbol), Henry expects that federal vigilance will lessen. "They never do watch too close when it's only Negroes involved," he says with some bitterness. Only about 100 of the 80,000 MFDP members are white. The prospect of groups of five or six Negroes going door-to-door in white sections of such places as McComb, Philadelphia and Greenwood is enough to make civil-rights veterans shudder. Henry expects intimidation and violence.

Precautions are being taken. By sending canvassers out in groups of five or six, MFDP is using what is called the "general security number." If there is trouble, at least there will be witnesses. Canvassing will be done only during daylight, and the local police and the FBI will be alerted whenever MFDP crews are working.

For Henry, a Clarksdale druggist, life has changed a great deal. As a boy, he had white friends and knew white men. "I did the things Negro boys did, shined their shoes, got them women. . . ." But friendships with the white community ended in the early 1950's, when the Supreme Court handed down its school-desegregation decision and Henry became the first state NAACP president.

He lives with his wife and 13-year-old daughter in a seven-room, single-floor house in Clarksdale's Negro section – an area of small wooden houses perched on cement blocks facing part-dirt, part-paved roads. He has been arrested and his family has been threatened and badgered; this has become routine. A year and a half ago, on Good Friday, a bomb was thrown into the house, blowing a hole through the roof and setting it afire. Many shots have spattered through the living-room window. At Henry's Fourth Street drugstore, in the heart of the ramshackle Negro business district, bombs and bricks have taken out his display windows many times. He can no longer get insurance against such damage.

During the cool fall nights at the Henry home, the hissing of the gas-fire heaters under the floor-vents is unnerving to a stranger, like the whispered rumors around Mississippi in recent months that a flip of a coin determined whether Medgar Evers or Aaron Henry was to get the sniper's bullet.

Why does he stay? "Man, I'm a Clarksdale boy. Running's no good anyway."

And so, every night at bedtime, a neighbor, any of about 15 who have been sharing the task for over a year, comes to sit in the living room. The telephone is taken off the hook, the lights turned out, and the curtains drawn apart. The man sits watching out the picture window all night long, a double-barrelled 12-gauge shotgun at one hand, and a .22-caliber pistol at the other.

The MFDP subscribes to both the platform and the "liberal philosophy" of the Democratic Party as epitomized by the late John F. Kennedy. It is felt that only through the Democratic Party can Negroes get what they want. Negro Republicans, even before the advent of Goldwater, had despaired of overcoming the state's racism through that party, which in Mississippi is not only lily-white but weak as well. On the other hand, Mississippi Negroes doubt that Democratic Governor Paul B. Johnson Jr., who supports Goldwater, will ask for assistance from any federal program which would help Negroes get an economic foothold in the state, which has the lowest per-capita income in the nation. "As long as this unit controls the federal-state relationship, there will be this kind of bottleneck," Henry says.

As the only "party" working for President Johnson in the state, MFDP expects to receive campaign material from the Democratic National Headquarters. In the past few weeks it has been collecting 1,000 signatures, to guarantee that President Johnson's name stays on the ballot for November, but apart from that the primary effort has been organizing and registering people in the MFDP. The leaders say that the membership was 65,000 at Democratic convention time, has risen to 80,000, and can be expected to go much higher because there are at least 450,000 Negroes in the state who are

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over the age of 21. The MFDP is not asking people it seeks to register as voters to interpret the Constitution, as the official state forms do; it is registering members on the basis of age, citizenship and basic literacy, as is done in most states.

Henry does not believe his group will be able to swing Goldwater-heavy Mississippi to President Johnson, but he feels that thousands of Negro votes all over the country can be prodded into the Democratic column, which is why MFDP people have accepted invitations to speak in California, Illinois and New York.

"In the Negro communities," Henry said, "Johnson does not evoke what I would call enthusiastic support. Negroes look upon the civil-rights bill as a matter of political expediency. They are not going to vote for Goldwater, but they'll be inclined to sit it out."

The MFDP expresses no interest in becoming a third party in Mississippi. Its strategy is gradually to take over the regular Democratic Party machinery. "In four years," Henry says, "we'll be back at the national convention."

RICHARD A. WOODLEY

Paying for UN Policing

When the General Assembly of the United Nations meets again on November 10, the United States will try to make Russia pay its share of the UN force that fought in the Congo. The Russians say they won't pay, because they never approved of the UN force in the first place. "The US and Russia are like two carloads of teenagers playing 'chicken'," says Oscar Schachter, director of the UN general legal section. His and others' fear is that the row between the two major powers might tear the UN apart. Britain, all the NATO countries except France, and Ireland will support the US; the Communist countries will back Russia. France will almost certainly support Russia, because France is also refusing to pay a share of the cost of UN forces, in the Congo and in the Middle East at the time of the Suez crisis in 1956.

Many of the 112 members of the UN will undoubtedly abstain from voting. Most Latin American countries will probably support the US, either out of conviction that the US position of "no representation without taxation" is right, or from fear of losing US aid. But Mexico believes that "to deprive the USSR of her vote would be to worsen the situation." Cuba will, of course, support Russia. And there may be Latin American abstentions. Bolivia and Guatemala, for example, are also in arrears with UN dues.

It is generally conceded that the balance of power rests with the Afro-Asians who now have roughly half the votes. Their motives are mixed: distaste of the Arab countries for the UN force in the Middle East, arms deals between Egypt and Russia, arms negotiations between India and Russia, dependence of French-speaking African nations on French aid, dependence of former English colonies on Britain for military or financial aid, and perhaps most important, the fear of many small nations that the UN might collapse if the Russians walk out.

A Cameroon delegate says: "If the Russians were to lose their UN vote for refusing to pay their UN debt, it would make the situation worse. Many Afro-Asian nations will abstain."

E. O. Sanu, counselor of the Nigerian mission, says: "Some Afro-Asian nations feel the USSR has supported their position on colonialism so they are not anxious to see Russia lose its vote. The US has not supported us on apartheid or Angola." Chief S.O. Adebo, head of the Nigerian delegation and chairman of the 21-nation working group that is looking for a way to pay for future peace-keeping operations, says: "In a showdown, what will happen among the Afro-Asian nations and the Latin American nations will depend on how the two sides behave about our proposals for solution of the problem. If the US or the Russians shoot down all our proposals, we won't like it. I told Adlai Stevenson and Francis Plimpton that if they can convince the Russians they are not trying to defeat them, but to find a solution, it will help. . . . They have been very gracious and have done this to some extent. I have said the same thing to the Russians, but they seem to press their argument with ferocity. . . ."

Possibilities include Russian willingness to make a part payment of, say, half of her $55 million debt; or Russian payment in advance of her 1965 dues, which would be used by the UN to pay off the Congo debt; or a softening of the US position after the election, assuming of course Mr. Johnson wins. If Russia gets away with it, other countries may be tempted to welsh also. That, no doubt, is what UN Secretary General U Thant has in mind when he warns that, "failure to take care of the past may not leave us with much of a future."

PETER ROWLEY

COMING: *How members of the 88th Congress cast their votes on twelve key bills*

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A LABOUR PARTY VICTORY IS SUDDENLY IN DOUBT

Why Tory Hopes Are Rising

London

Elections are about power, but the one this October 15 is more patently about power than usual. The Conservatives have won the last three elections on the trot. If they can contrive to win yet another this time they see themselves becoming the inevitable majority party, the way they see the Democrats now, or the Swedish Social Democrats, or Sir Robert Menzies' Liberal-Country Party coalition in Australia. For Sir Alec Douglas-Home *this* is the big prize. Against all the odds of the past 18 months it could now be within his grasp.

Labour is tremblingly aware that it lost the last three times out. To lose again would not just be careless, it would be a judgment. The internecine knifing between left and right after defeat would make the Gaitskellite agony after 1959 seem a childish tiff. And hard though it is to see Harold Wilson letting himself be stabbed as Gaitskell was, the big trade unions, the sole paymasters of the party, would find less and less reason to dig into their members' pockets simply to throw more good money after bad. Yet if Labour wins, it will be the first time the party has ever exercised power in peacetime and prosperity. The prospect of creating a social system basically different from the North American example would seem within the ideologues' grasp. To Wilson, *that* is the prize.

The Liberals have not won an election for 54 years. If they fail to better themselves now, in actual parliamentary seats as well as extra votes, no one will ever take them seriously again. Yet if Labour were to disintegrate, would Liberal leader Jo Grimond then get his chance to close ranks with the Labour right and refashion a radical, non-socialist alternative to conservatism? These are the highest stakes any of the parties has played for since 1945.

Six months ago it would have been idle, academic speculation to talk of Labour losing; three months ago, when the habitual Tory voters began to show their teeth for the first time in three years, it still seemed wildly improbable that Sir Alec would pull it off. But that is what both the public opinion polls are now saying he will do. (They are, in fact, saying there will be a deadheat, but because Labour piles up useless majorities in its mining and slum strongholds, a statistical deadheat means a working Conservative majority in the Commons.) What, it is being asked here, has brought about this change in the odds, so numbing to Labour hearts (and so unexpected to some Conservative intelligence)? It may be simply the weather, the best summer since Macmillan turned on the Tory sun in 1959. The cost of housing, crowded state schools, the bottleneck of university entrance, traffic congestion – the headaches of the middle class – seem more tolerable when it isn't raining. It may be that the viewing electorate has got fed up with Wilson, the mechanical talking man of television. It is most probable, though, that the voters (and especially, the polls say, the women) have been thinking twice about any change in running an economy that has kept high employment (at present 98.5 percent of the labor force), has brought regular, even if inflationary, wage rises, and has not asked for too much self-discipline from anybody except the very old.

It happens to be true that this internal prosperity looks shaky against falling overseas reserves and a glaring imbalance of imports. But right until the last weekend of September, Wilson kept strangely off this issue, partly because he feared the blame for starting a run against sterling if he made horrific noises, but mainly because he did not want to create too much of a crisis for himself after he had won.

Labour complains that it had to cut off its publicity campaign in mid-summer because it hadn't the money to keep going until October. At the same time the Tories quickly upped theirs, especially to catch the voters relaxed at seaside beaches. The Tories have a good, straightforward-seeming, patriotic issue in keeping the British bomb (even if its chief delivery system is the American Polaris); in this, Goldwater's emergence has helped not hurt them. And the electors, for a decade, have suspected that a Labour program costs the country more than the party manifesto ever says. Wilson is certain of a high poll among state pensioners; he has personal identification with the white-overalled, science-trained new middle class; and Labour seems to be more attractive to young, first-time voters than in 1959. If Labour does crash, it will not in fact be because of Wilson (his personal rating with the electors is above Sir Alec's): it will be because Labour has nothing – and very nearly no one – other than Wilson.

Can Wilson pull it off? He has taken the whole burden of the campaign on himself. He will run all the

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major press conferences (which Gaitskell left to others). He claims to write all his own speeches. He certainly makes all the decisions, both on strategy and tactics. Mainly this is because he cannot trust anyone to do any of these things better than he does. This fits in exactly with the Tory jibe of a "one-man band," and the Conservatives expect Wilson to be a very tired band, especially vulnerable to counter-attack in the vital, closing stages. By contrast, Sir Alec goes his own, idiosyncratic way, seeming almost above the battle, and leaving a lot to his bright young men.

It would be wrong to count out so professional an operator as Wilson. He (like everyone else) has taken as his campaign guide White's *The Making of The President*. Hence his attempts to summon up Kennedy-type language (though often larded with heavy trade union jargon); hence, too, his challenge to Sir Alec to debate on television, a challenge rejected because Sir Alec also saw Kennedy *vs* Nixon. Wilson can still win if he succeeds in imposing his will on the election, by a sheerly presidential-style campaign. But he is no charismatic leader to sway the millions by charm or even by manifest integrity. As long as the Tories can blunt his issues, as they have learned to do this past summer, Harold Wilson is in growing danger of snatching defeat from what, just a bare three months ago, were the jaws of victory.

Alastair Burnet

Barry Fights the Court

by Alexander M. Bickel

Senator Goldwater is campaigning against the Supreme Court. The Court, he argues, has usurped power – "raw and naked power" – and has engaged in making law in accordance with its predilections, instead of applying the law that it finds in the books. The Court, therefore, needs to be curbed by constitutional amendment and by legislation where possible, and it needs to be reconstituted through the appointment of men who will, with greater fidelity, abide by the judicial function as Mr. Goldwater understands it.

Inveterate simplifier that he is – we had a Great Commoner who never got to the White House, and we now have a Great Simplifier – Mr. Goldwater is in the grip of an ancient and oft-exploded illusion: that the law – the law in general and the law of the Constitution in particular – is some sort of an objectively determinable thing, perhaps a kind of palpable object which one applies somewhat the way we apply liquid cement to a cracked chair, or perhaps an arsenal of variously shaped pegs which we fit into appropriate holes, as these holes are revealed to us in litigation. We have, after all, a government of laws and not of men, and if laws can govern, must they not be something like what Mr. Goldwater imagines?

But there is no law of any such sort, nor has there ever been, least of all in the Constitution. We are governed by *men*, in the Congress, in the executive, and in the judiciary, who make law. A government of laws simply means that no capricious commands are issued; that rules which are laid down to govern conduct are of general application; that no one man or one institution has power unchecked by anyone else; and that the lawmakers sometimes surrender immediately desired objectives for the sake of conforming to a superior norm or principle, which is itself, of course, also man-made.

Yet if the Supreme Court must make rather than find law, and it is, therefore, vacuous and, indeed, pernicious to accuse the judges of dereliction of duty because they have been doing what is unavoidable in their position, it does not follow that we can have no quarrel with the Court about the way it performs its function. It does not follow that judges may act on the basis of their personal inclinations and predilections. The questions propounded to the judges are somewhat in the nature of philosophical questions; but it is not true that all answers to such questions are equally and indifferently good or bad and never verifiable.

Lincoln agitated about the Court's work. The Progressives did. Franklin D. Roosevelt did. In October 1920, former President (and future Chief Justice) William Howard Taft accused the outgoing Wilson Administration of having favored a "latitudinarian construction of the Constitution," and thus weakened the protection that the Constitution "should afford against Socialist raids upon property rights. . . ." Wilson had appointed Brandeis and John H. Clarke, whose constitutional views impaired the fundamental law, in Mr. Taft's opinion. The President to be elected the follow-

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ing November, Mr. Taft continued, would probably have the appointment of three or four Justices. "There is no greater domestic issue in this election," Mr. Taft concluded, "than the maintenance of the Supreme Court as a bulwark to enforce the guarantee that no man shall be deprived of his property without due process of law. . . ." Answering Taft in *The New Republic*, Felix Frankfurter expressed no shock at this dragging of the judges' skirts through the political mire. On the contrary, Mr. Taft, he thought, deserved "our gratitude for his candor in recognizing that the Supreme Court involved political issues to be discussed like other political issues." Mr. Taft, Frankfurter was glad to note, had opened "the door to the Holy of Holies. . . ." Others, Mr. Frankfurter said, would follow. That is the important point to be made about Mr. Goldwater's assault upon the Supreme Court. Others should follow, so that deliberate assessment of the Court's work may result.

Administration of Criminal Justice

Mr. Goldwater centers his fire on two targets among major contemporary constitutional decisions. First, there is legislative reapportionment. Here the attack of both Mr. Goldwater and the Republican platform is partial only. There appears to be no objection to the Court's decision that the national House of Representatives must be apportioned in accordance with the one person, one vote principle; no objection to the striking down of the Georgia county unit system; no objection to apportioning one house of state legislatures on the same principle; objection only to the proposition that both houses of state legislatures must be so apportioned. On the internal evidence of the Republican attack itself, then, there can be no question of usurpation here, for if the Supreme Court operated within the proper judicial sphere in ordering a little apportionment – indeed quite a great deal – on the one man, one vote principle, it cannot suddenly have committed a usurpation when it carried that principle somewhat farther than, in the judgment of Mr. Goldwater, it should go. However, Mr. Goldwater is quite right in suggesting that a justification of the Court's action, on the ground that the legislatures themselves were evidently failing to act and therefore the Court had to step in, is much too facile.

Second, the Court's reform – that, I think, is the precisely correct word – of important features of the administration of criminal justice throughout the country. Here Mr. Goldwater's attack is connected to an issue that serves, needless to say, more than one purpose for him – the issue of crime (discussed last week in these pages by James Ridgeway) and of the so-called breakdown of law and order in our cities. The Supreme Court has contributed to this breakdown, Mr. Goldwater argues, as he did in a formal address at St. Petersburg, Florida, on September 15, by imposing a "severe restriction of state administration of criminal law. . . ." There was no problem, he says, up to a few years ago. But then a divided Court held that evidence obtained by unconstitutional searches and seizures is inadmissible in state criminal trials, and it enforced this ruling by reversing convictions in cases in which illegally seized evidence had been introduced, regardless of what the rest of the evidence might have shown about the guilt of the defendant. Convictions are also reversed regardless of what the rest of the evidence may show, if an illegally obtained confession – essentially a confession coerced from the accused in one manner or another – was introduced in evidence at the trial. Finally, just last June, the rule of the famous *Gideon* case, under which the accused in a state or federal trial must be represented by counsel, was extended to apply to the period before arraignment, although – so far, at any rate – only in rather particular circumstances. In the case decided last June, the Court forbade the use at the trial of admissions made by the accused to the police while they were holding him incommunicado, having refused his repeated requests to see his lawyer and the lawyer's repeated requests to see him, and having failed to advise him that he has a constitutional right to remain silent. These decisions, and the last one in particular, Mr. Goldwater concludes, seem to say "that a criminal defendant must be given a sporting chance to go free, even though nobody doubts in the slightest that he is guilty. No wonder our law enforcement officers have been demoralized and rendered ineffective in their jobs."

An answer to the Senator must begin by pointing out that the problem does not, as Mr. Goldwater seems to think, date back to a few years ago. It is 15 years since the Supreme Court held quite explicitly that the Fourth Amendment's prohibition against unreasonable searches and seizures applies to state police as well as to the federal government. The concomitant rule that evidence obtained by an illegal search is inadmissible and that a conviction obtained with the aid of such evidence must be reversed has governed the administration of criminal justice in the federal courts since 1914. Many states, actually two more than half, have also followed this rule. Experience has demonstrated that without this exclusionary rule the Fourth Amendment's prohibition tends to become a dead letter, for there is no way effectively to bring it home to the police otherwise than by denying them the end product of their work – namely, a conviction – in cases in which they have acted illegally. Experience has also shown that the exclusionary rule is far from rendering the administration of criminal justice ineffective – 50 years of experi-

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ence with the rule in the federal courts and many years of experience in numerous state jurisdictions have demonstrated that. And so the Court, on the basis essentially of an empirical judgment, has now imposed the exclusionary rule on all the states.

Now as to the decisions concerning confessions and the right to counsel. Again the basic rules go back to the early and mid-1930's, and the work of such flaming radicals as Justice George Sutherland and Chief Justice Charles Evans Hughes. It had been held till recently, however, that if a defendant in a relatively minor criminal case in the state courts could be shown to have been perfectly able to take care of himself and to have been protected adequately by the judge, the rule as to counsel might be waived. The result was a greater interference by the Supreme Court and by lower federal courts in the administration of criminal justice in the states than will now occur, for many cases had to be reviewed and weighed on their particular facts. In light of this rather unsuccessful experience, the Court has now held that counsel must always be available, excepting only, perhaps, in cases of petty offenses.

It has been true for quite a number of years that the Court will reverse convictions based on confessions obtained by federal officers during a period of undue delay before arraignment of an accused – which is to say, before counsel was provided for him. This is the so-called *McNabb-Mallory* rule. Mr. Goldwater objects to it and he objects to any sort of extension of it to state trials, although no sort of blanket extension of it has taken place. But to allow prolonged interrogation by the police of an unrepresented defendant is to risk making a farce of our professions about the trial process. An enormous proportion of criminal convictions in this country are obtained on pleas of guilty without any trial at all. It is only the top of the iceberg that goes to the jury. If there are no effective safeguards earlier, the result will be, as the Court said last June, to "make the trial no more than an appeal from the interrogation," and not a very effective one, and in many cases not even that.

The heart of the matter is Mr. Goldwater's wisecrack about sporting chances and his confidence that it is possible to say about an accused who has not been put to a properly safeguarded trial that "nobody doubts in the slightest that he is guilty." As to confessions, the Court reverses convictions not merely because this is the way to discipline the police and make them abide by constitutional procedures, but because a confession obtained in other than the most-guarded circumstances is inherently not as credible as an altogether voluntary confession. In the case of illegal searches and seizures, the evidence might be adequately probative of guilt, but in many cases it is not necessarily conclusive. And even if it is, the idea is not to give the defendant a sporting chance, but to hold the police to rules of civilized conduct toward the innocent as well as the guilty. The innocent are presumably never convicted, and the courts cannot therefore use their cases to keep the police in line.

A Two Party Press?

by Ben H. Bagdikian

Democrats in high places must have a queer feeling when they read the papers these days – they are getting an even break in editorial endorsements for President. Democrats have almost never had much of the press with them and since the war never more than 17 percent. Up to now the most reliable historical indicator in American elections – after "as Maine goes" failed – has been that as the daily press goes, so goes history in the opposite direction.

Senator Goldwater claims the press is biased. Vice Presidential candidate William Miller is telling audiences, "The Democrats have all the newspapers, all the columnists and all the pollsters. All Barry Goldwater and I have are the people." Only election day will prove whether Mr. Miller's second sentence is true. The first presumably refers to the fact that the Democrats at this point have half the papers with them and Mr. Miller can be forgiven calling this "all the newspapers" because Republicans are not in the habit of sharing publishers' favors.

The authoritative listing of newspaper endorsements

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in the trade magazine, *Editor & Publisher*, comes out election week; but *E&P's* preliminary compilation shows that of 828 papers answering its poll so far, covering half the papers and half the circulation, 243 have come out for Johnson, 250 for Goldwater and 335 are undecided. Johnson's papers are larger than Goldwater's because Johnson's sympathetic circulation runs to 42 percent and Goldwater's 17 percent. If these proportions hold to election time – and daily additions run even more heavily to Johnson – this will be the first time since Grover Cleveland that a Democratic Presidential candidate has had a majority of the editorial pages on his side.

John Kennedy in 1960, in contrast, had no editorial support in the following major cities: Baltimore, Boston, Chicago, Cincinnati, Cleveland, Denver, Los Angeles, Philadelphia, Pittsburgh, San Francisco and Seattle. This year Johnson already has been endorsed in all of them.

As of this writing, a month before the election, Johnson already has more papers on his side than any Democratic candidate has had on election day in the last 30 years.

One can sympathize with the Goldwater zealots in Los Angeles who reportedly canceled subscriptions to the *Los Angeles Times* in the thousands when that paper, which never in recent times endorsed a Democrat, came out for Johnson. The Goldwaterites took their subscriptions to the reliable Hearst paper in Los Angeles which also had kept the faith with the Old Guard GOP. Then the entire Hearst chain with 11 papers went over to Johnson, as did the Scripps-Howard chain of 17.

Hearst's New York *Journal-American* had supported every Republican Presidential candidate since at least 1932. The Charleston (W.Va.) *Daily Mail* hadn't endorsed a Democrat since 1914 but this year is supporting Johnson. The Maine weekly, *Camden Herald*, 95 years old, came out for a Democrat for the first time. The *Chicago Daily News* is endorsing its first Democrat in seven elections; the *Kansas City Star*, its first since Grover Cleveland. *The Saturday Evening Post* (pro-Johnson) said it had supported Republicans "as far as its history can be traced."

There is a Democratic-to-Goldwater switch in some Southern papers, but the change is not so great, since many of them have been idiosyncratic in their Democratism. Many of them supported Dixiecrats when they could and Eisenhower when they couldn't. The Natchez (Miss.) *Democrat*, for example, has given its first Republican endorsement since 1865, but in 1948 it endorsed the Dixiecrat candidate. The Columbus (Ga.) *Ledger* is for Goldwater but supported Republicans in the last three elections.

Why the American publisher is rushing toward the Democrats (or half rushing) is embodied in the folk song refrain: "He laid down sword and pistol and called them 'son and dear.' / Not because he loved them, but only through fear."

They fear Barry Goldwater. As the Chicago *Sun-Times* said, "We cannot accept the Goldwater philosophy. Neither do we believe [he] has the capacity. . . ." *The Saturday Evening Post* called Goldwater "a wild man, a stray." The *Kansas City Star*, supporting its first Democrat since 1892, said Goldwater's Presidency "might plunge the world deeper into the uncertainty of greater international tension."

The massive press defection reinforces the thesis that there is a fundamental tendency in the United States toward "safe" candidates and Senator Goldwater and his followers have failed to understand this.

There is an irony in the rush of Republican papers to Johnson. Many have for years repeated the Goldwaterite clichés in their editorial columns: anti-public-sector spending, compulsive damnation of the State Department, "bureaucrats in Washington," "the spenders," cradle-to-the-grave enemies of free enterprise, and "Communist appeasers." They were, many of them, able to indulge in the mythology of "the enemy in Washington" because at election time their Republican Party would, like the House Rules Committee, bottle up the crazier ideologues and put forward a safe man who would repeat the right-wing catechism but, like Landon, Willkie, Dewey, Eisenhower and Nixon, not be so naïve as to carry it out. Goldwater is not the first Republican leader to proclaim Sacred Reaction, but he seems the first Presidential candidate who really means it, and this has apparently scared big businessmen and many publishers out of their oldest and most heart-warming November habits.

Nevertheless, newspaper support ought to scare, if not Democratic politicians, at least Democratic historians. George Washington didn't campaign for office, but after him the number of first-rate or even competent Presidents who had majority newspaper support is remarkably small. John Adams had most of the press on his side, but this was because the Eastern-Federalist-merchant values (The Establishment?) still dominated the whole country. After that some of the more notable Presidents had these percentages of papers on their side: Jefferson – 33 percent; Madison – 47 percent; John Quincy Adams – 40 percent; Jackson – 40 percent; Lincoln – 30 percent; F. Roosevelt – 38 percent (down to 20); Truman – 16 percent; Kennedy – 15 percent.

Some of the press's choices in history are: W. H. Harrison – 67 percent; Buchanan – 52 percent; Grant – 62 percent; McKinley – 67 percent; Taft – 55 percent; Harding – 60 percent; Coolidge – 57 percent; Hoover – 59 percent.

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Warren Report

Case for the Prosecution

by Murray Kempton

We are the only appellate court the ghost of Lee Oswald will ever know, and so it becomes our duty to cast the coldest eye we can upon a version of the life of Lee Oswald and the death of John F. Kennedy that has been produced by men who have sifted through the memories of 552 witnesses. It is no consolation under these circumstances to read, in the Warren Commission's Report, page after page of ratiocination on the source of Lee Oswald's interior quarrel, and then to look in the appendix and discover that the Commission hired for its staff two Army historians and no psychiatrists. It heard only two witnesses who were psychiatrists, one of whom saw Oswald last when he was 13 and the other of whom saw only Jack Ruby. The Commission has acted faithful to the great tradition of a nation of persons who practice psychiatry without a license; we then can go forward with less shame to practice the Commission's profession without a license.

The report destroys most of the assumptions which fed speculations about conspiracy in Mr. Kennedy's murder. Those assumptions were always irresponsible, largely because government was irresponsible. You cannot, as an instance, usefully discuss the source of the wounds of the victim of a murder unless you have an autopsy report. But speculation is unavoidable, and it was hardly responsible of government to give speculation a broader excuse than it deserved by withholding any information so routine – however dreadful to read in this special case. Now, late in the tenth month, the Warren Commission releases the autopsy the Naval Hospital at Bethesda performed on Mr. Kennedy the night of his assassination. Hereafter it will be unreasonable to doubt that the shots came from the general area of the Texas School Book Depository, where Oswald was working. We have the ballistics tests which make it hard to believe that Mr. Kennedy was not killed by shots from the rifle found by the Dallas police in that Depository. We have a history of that rifle which persuades that Oswald was its owner. We have a chronicle of Oswald's day which destroys any reasonable basis for not believing that he could have done all the things he was accused of doing in all the places the police said he had been, and with such ease as to have no need of an accomplice. It is hard to believe that Oswald did not kill John F. Kennedy, and that he did not act alone.

This report then has drastically narrowed the area of doubt. What doubts remain turn out to be less about Oswald's guilt than about the method of his judges.

Once Oswald was dead, could any established institution give him a fair trial? The Warren Commission began with certain handicaps. It was, if not an established institution, at least a composite of established persons, sharing the commitments of their institutions. Most of its members were insiders examining the claim of that most absurd of all outsiders, a young man who alive had never been able to belong for any respectable period of time to anything, and who dead lay under the heaviest evidence that he had committed the ultimate act of alienation. The Commission, like most of us, had to want Lee Oswald to be guilty and guilty alone. We can then only test the Commission, not by its findings, which were in the main the findings of law enforcement agencies before the Commission staff came to Washington, but by how it went about its business.

There was the danger that the Commission, Oswald's lone guilt accepted, might, in its concern to set all doubts to rest, tidy up its case with evidence that is not evidence at all. Failure to avoid that danger is demonstrated by a particularly conspicuous exercise in argument from evidence which it seems to have gathered on its own.

The Commission has decided that Lee Oswald must have shot Mr. Kennedy twice, once in the neck at a range of 175 or so feet and then in the head at 265 feet. Oswald fired three shots and missed one entirely. If the first hit the President's neck and the second missed and the third hit the President's head, the report says, Oswald would have had no more than 5.6 seconds

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to fire all three. If either the first or third had missed, Oswald would have had as many as eight seconds to complete the series.

One problem has always been whether Oswald was capable of firing that distance with that accuracy at that speed with a bolt-action rifle. Oswald was an average marksman when he left the Marines; he had fired only twice for record and never in combat. That is not a history of elaborate training; and what experience Oswald had in the service must have been entirely with semi-automatic weapons. In Russia, he does seem to have hunted with a shotgun; in Texas, he hunted occasionally with a .22. But no witness the Commission would accept testified that Oswald had practiced firing this rifle to any special extent, although Marina Oswald reported that she saw him on occasion with the rifle on his knee, opening and closing its bolt; and that could have improved his firing speed.

The Commission insists, from all this, that Oswald was an excellent rifleman by civilian standards. That is a statement without much meaning. At least 15 million adult males have been through the services in the last 20 years and most of them made the marksman's score, which was Oswald's rating the last time he fired for record.

But, in terms more concrete, the Commission accepts Marina Oswald's story that her husband fired a shot at Major-General Edwin Walker in April of 1963. That judgment strengthens assumptions about Oswald's bent for homicide, but it clearly damages assumptions about his skill with a gun. Walker was shot at while sitting at a table before an open window in his home. Oswald in that case would have fired into a lighted room at a stationary target with his rifle steady on a fence at a range less than a quarter of the distance from which he later killed Mr. Kennedy. And Oswald missed. His performance on November 22 can only be explained in terms of the one day of the golfer's life when he cuts 10 strokes off his normal score. The best argument is that such a rise over his ordinary level is implausible but by no means impossible.

The Commission, of course, cannot accept any explanation both so real and so irrational; it must offer us evidence that, on any normal day, Oswald could have shot the way he did. To fortify this proposition, the Ballistics Research Laboratory had three marksmen, using Oswald's rifle, fire at targets set at each of the three distances from which Oswald is thought to have shot Mr. Kennedy.

The Commission's three specimens were all certified by the National Rifle Association as Master Marksmen, the highest of the NRA's five gradations of skill and three rungs above Oswald's last-known rating on the ladder. That amounts to judging the probable performance of a golfer whose usual score is 85 by testing the course with men who regularly shoot near 70. Even so these Master Marksmen missed the target on five of their 18 shots, which is not much better than Oswald's average. One missed two of his three targets, a performance worse than Oswald's.

The Masters were instructed to shoot as fast as they could, which, of course, diminished their accuracy as it would have Oswald's. As the times turned out, if Oswald had had only 5.6 seconds to fire all three shots, he was faster with his rifle than these Masters were in four cases and slower only in two. If he had had eight seconds, he would still have accomplished the series in less time than one Master took.

And yet the Commission accepts without question the judgment of Ronald Simmons, its ballistics expert, that "on the basis of these results the probability of hitting the target . . . was relatively high."

If these tests indicate anything, it is that the probability of *Oswald's* hitting the target was rather low.

In the face of all the other evidence, I am ready to concede that Oswald might just this once have been functioning over his head. But it is hardly fair to his ghost for his judges to employ such a test standard for no better purpose than to elevate the implausible to the probable. That is the kind of thing we expect, not from judges, but from prosecutors of the better sort. In this instance we begin to see the Warren Report not as a judicial finding but as a presentation of a highly responsible prosecutor of the evidence gathered for him by a police force. It is to test such cases that we have an adversary system of criminal justice; with the best will in the world it is hard for courts to function without the minatory presence of a defense counsel.

Testimony of Eyewitnesses

Most of the speculation which has afflicted public discussion about the Kennedy assassination can be blamed on – or perhaps credited to – the refusal of many of us to accept the absurd. But the Warren Report, when it most persuades, is a recital of a series of accidents which ends by convincing us that the absurd really does explain it all, and that Mr. Kennedy really might as well have been killed by a bolt of lightning. Thinking of that, it is possible to sympathize with those who cannot accept such chaos except as the result of the work of a highly rationalized conspiracy.

There was always the danger that the Warren Commission, having accepted the only persuasive theory, would feel some duty to convince the unpersuaded by the desperate sort of carpentry which trims every piece to make it neat, even though the whole is untidy. The case against Oswald badly needs an unimpeachable direct eyewitness; and the Commission functioned in continual peril of losing its balance in the strain to

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find the person whose testimony is indisputable.

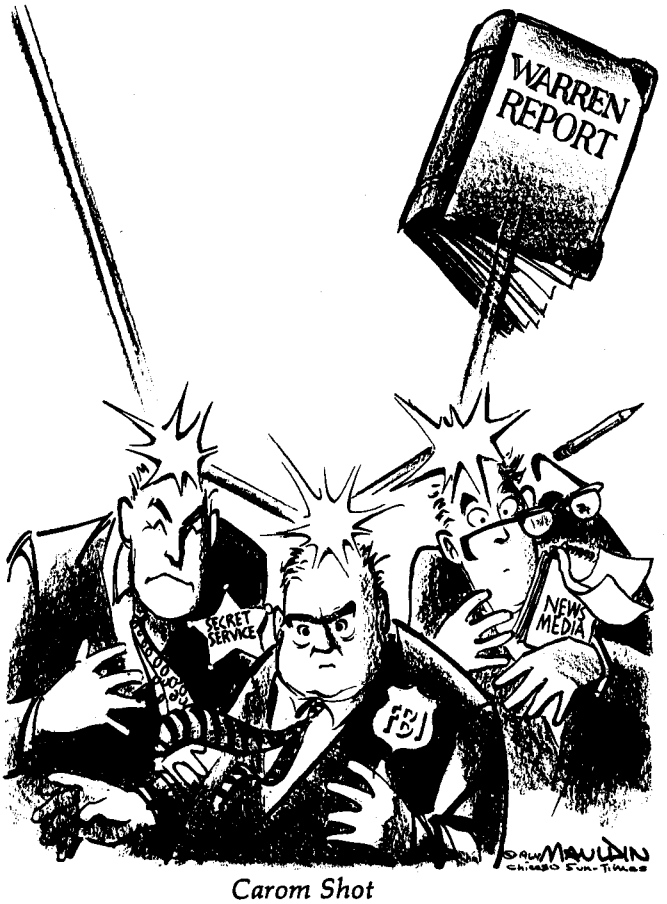
Most of the eyewitnesses have untidy memories, because all witnesses have untidy memories, and because the disorder is worse in this case because they are all persons who were living through an hysterical moment. The first reports of their testimony produced conflicts which are the strongest reason why doubts of Oswald's guilt have until now persisted. The Commission, like the rest of us, had to pick and choose whom to believe among hundreds of clouded witnesses.

It gives special confidence to three witnesses to the Kennedy murder. The most important is Howard Brennan, a steamfitter who claims he saw a man firing a rifle from a sixth-floor window of the Texas School Book Depository. His description of that man seems to have been given to a policeman a few minutes after the shooting and is assumed by the Commission to have been the basis for the first police broadcast warning all patrols to look out for a suspect who would have looked very like Lee Oswald.

After Oswald's arrest, Brennan was taken to a police line-up where he said that Oswald looked like the man he had seen in the window, but that he could not make a positive identification. Brennan explained four weeks later that he had been sure that Oswald was the man but had refused to say so outright because he was afraid the Communists might kill him too. He told the Commission finally that he was sure that he had seen Oswald in the window.

Even so and quite properly, the Commission concludes its summary of his testimony with the statement that it could not base its conclusion that Oswald was the assassin on any identification by Brennan. But then, 100 pages later, Brennan enters again with the flat reminder from the Commission that "Howard L. Brennan made a positive identification of Oswald as being the person in the window." The best of prosecutors tidy up matters that way between the day the witness testifies and the day they sum up to the jury; that is why we have defense attorneys.

The Commission is also impressed with the testimony of Ronald Fischer and Robert Edwards, who were standing in the street and also saw the man in the window. Fischer looked at him for 15 seconds – "he appeared uncomfortable . . . [he] was just there transfixed." The Dallas police do not seem to have found out about Fischer until a week after the assassination. Then they showed him a picture of Oswald, and Fischer said "that could have been the man," but he was "not sure." The Commission concedes that Fischer and Edwards did not see this suspect "clearly enough or long enough to identify him." That is an odd finding, set against Fischer's recollection that he watched the man intently for 15 seconds and saw enough of his expression to reach a judgment on the state of his nerves.



Carom Shot

But the Commission seems rather to appreciate high color when it is offered by a supporting witness. Mrs. Mary Bledsoe, Oswald's former landlady, saw him on the bus in which he began his errant progress from the Book Depository. "He looked," she said, "like a maniac . . . he looked so bad in his face, and his face was so distorted." No other witness who saw Oswald between the assassination of Mr. Kennedy and the murder of Tippit remembers him in any such state of frenzy, and only one remembers him in an unusual hurry; Mrs. Bledsoe is a precise witness, but we have to assume that high romance is her little weakness, and that the Warren Commission offers her description of Oswald with the fit upon him with the indulgence good prosecutors render to good witnesses.

William Whaley, the taxi-driver who drove Oswald after he left the bus, remembered that he was in a state so oddly calm under the circumstances that he even offered to give up the cab to a woman passenger who said she was in a hurry. The Commission is not too content with Whaley; he was an untidy witness, even though his misrecollections offered small substantial support to any case for Oswald.

Whaley picked Oswald out of the line-up with ease, although his reflections on that scene might explain

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why any good prosecutor would find him untrustworthy. In that line-up, Whaley said, "You could have picked him out without identifying him by just listening because he was bawling out the policemen, telling them it wasn't right to put him in line with those teenagers." Whaley said that the line-up consisted of five young teenagers, all handcuffed together, and Oswald. That is the only account of Dallas police line-up techniques to be found in the report and the Commission is careful to correct it.

"Whaley's memory of the line-up," it says, "is inaccurate. There were four men altogether, not six men, in the line-up with Oswald." Two of these men were 18 and one was 24; Whaley may have exaggerated a little, but the truth, as provided by the Dallas authorities, is hardly a model of police practice.

There are, incidentally, strange gaps in the Commission's selection of witnesses. After he saw his man fire from the sixth floor, Brennan quickly "reported his observations to police officers." While he was talking to them, three more witnesses came out from the Depository. Brennan heard them tell the police that they had been on the fifth floor, that there had been three blasts directly overhead, and that they had even heard the ejected cartridge cases fall on the floor above them. This last detail is extraordinary, when we remember it was recorded by ears still ringing with a muzzle blast overhead. However, the Commission favors us with the results of detailed tests proving that it could have happened.

Yet it neglects to follow through on a detail much more important. Brennan's description, the Commission decides, was the source for the 12:45 police alarm describing a suspect very like Oswald. Brennan told a number of policemen. One of them, if the Commission is correct, must have called headquarters and given the material for the alarm. The way to find out whether the Commission is correct would be to find out who that policeman was. But Brennan's story, which I assume is true, is nowhere supported by the printed testimony of any of the policemen with whom he talked. The three witnesses who were on the fifth floor and heard the shots on the sixth wander in the same vacuum. Instead of going to the sixth floor to investigate, they sensibly went down to the street to find a policeman. Brennan says he heard them tell their story to a group of policemen. No policeman is cited to confirm this story either.

It is possible to guess why none is. We have every reason to believe that, no later than 12:40, a group of Dallas policemen had been told that the shots came from the sixth floor. "Around 1 p.m.," the Commission tells us, "Deputy Sheriff Luke Mooney noticed a pile of cartons in front of the window in the southeast corner of the sixth floor. Searching the area he found, at approximately 1:12 p.m., three empty cartridge cases on the floor near the window." Now that, if it means anything at all, describes a man who is searching blind and who has to depend on luck and patience to find what he does not know he is looking for. Mooney happened upon the assassin's ledge 25 minutes after Brennan had told a policeman precisely where it was, and he happened upon the cartridge cases 32 minutes after three witnesses had told a policeman where they heard them fall.

The Dallas Police

We come, by way of the Commission's fixed solicitude for the Dallas police, to the worst danger the Commission faced.

On November 29, Mr. Johnson appointed the Warren Commission and instructed it "to satisfy itself that the truth is known so far as it can be discovered" and to report its conclusions to him, "to the American people and to the world." The mention of the "world" rather gives the game away; the Commission was charged from the beginning with custody not just of the truth but also of the nation's reputation. At the time of the assassination, the Dallas Police Department was custodian of the national tradition of orderly justice, and the national reputation can hardly be served by too indignant recollections and too forceful strictures upon the Department's conduct. The Commission is disturbed by the disorder which ruled the Dallas jail all that weekend; it is far harsher on the news media than it is on the police. I confess a bias for the reporter over the cop; even so, the reporter is a private man and the cop is the representative of the public order and his conduct is what must be judged. The Commission says that Police Chief Curry may have erred out of his fixed belief in the public's right to know. That is a terrible excuse; the reporters who badgered Oswald could also claim that they were serving the public's right to know. The only policemen of my acquaintance who respect the public's right to know have been publicity hounds. That is what Chief Curry and Sheriff Decker give every evidence of being; lust for public notice was their only motive. The reporters should not have baited Lee Oswald; but, much more fundamental, the police should not have brought him out to be baited. Reporters go as far as society will let them; it was the duty of those cops to throw the reporters out. And the Commission has to be harsher on private citizens who were doing their job than it can be on policemen who refused to do theirs.

The Commission, in the most moderate terms, makes one revelation at which, I should think, Chief Justice Warren would normally climb walls.

For two days, Chief Curry had been blatting to the

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papers any piece of evidence he thought useful to his image. After Oswald was murdered, J. Edgar Hoover called Curry and told him to shut up. Thereafter the chief stopped talking to reporters. On Sunday night District Attorney Henry Wade came to Curry, said the world was full of rumors that Oswald died an innocent victim and that he proposed to go before the press and set the record straight with full details of the case assembled by the police.

Curry, with the wrath of Hoover still hot upon him, refused to give Wade any of the police case. Wade went doggedly ahead from what he remembered hearing around the corridors over the prior two days and appeared on television to reassure the public that Oswald was guilty beyond any possible debate.

"Unfortunately," the Commission says, "he lacked a thorough grasp of the evidence and made a number of errors . . . [which] provided much of the basis for the myths and rumors that came into being soon after the President's death." Oswald was a defendant who had been executed without trial, and Wade saw fit to pillory his yet-unburied body for no higher need than the public relations of a law enforcement office whose public relations were beyond repair. And the Warren Commission can find nothing larger for criticism in this spectacle than that it was poor public relations.

The Commission, one supposes, has to be gentle with these people because it thinks that so much of the case against Oswald depends on belief in the findings of the Dallas Police Department. And that brings us to a final danger the Warren Commission could hardly have entirely avoided.

Under Surveillance

The Commission is a creation of the President and therefore responsible to him. Only persons possessed by the notion of some great public conspiracy could demand that the Commission appoint its own investigators and pursue its inquiry as though the Dallas police and the Federal Bureau of Investigation were suspect institutions.

The Department of State gave the Commission what it chose to; what it gave was useful to enlighten those of us who wondered how Marina Oswald got out of Russia and how Oswald got his passport in 24 hours, two puzzles which the Department's explanations suggest most satisfactorily were not puzzles at all. The Commission also mentions the surmise that Oswald had some connection with the Central Intelligence Agency; it might better have left the subject alone than attempt to rebut with the single piece of testimony which is here cited:

"Director McCone stated unequivocally that Oswald was not an agent, employee or informant of the CIA, and that the Agency never communicated with him in any manner or furnished him any compensation."

There is, of course, the tangential matter of the Commission's criticism of the Secret Service and of the FBI for failing to spot Oswald in advance. It seems strange that the Secret Service could report that its files did not contain the name of a single person in the whole Dallas-Fort Worth area who might shoot the President of the United States. But it is even stranger to find Earl Warren's name attached to a suggestion that police surveillance of private persons needs to be tightened in this country. The FBI seems to have underrated Oswald's potential for violence; but it kept him under surveillance rigorous enough to shock any of us at this invasion of personal privacy.

Here is a summary of Special Agent James P. Hosty's handling of the FBI's Oswald file from March, until November, 1963: Hosty had closed the Oswald file, but, in March, he went to Oswald's last-known address to see Marina for the routine check-up the FBI makes on Russian émigrés. The Oswalds had moved; their former landlady told Hosty that Oswald drank and beat his wife. That was enough to make Hosty reopen the file.

In April, New York informed him that Oswald was subscribing to the *Daily Worker*. Later New York informed him of the contents of a letter Oswald had written to the Fair Play for Cuba Committee. The FBI then found Oswald in New Orleans. A confidential informant told its agents that Oswald was not engaged in Communist activities. On October 10, the CIA informed the FBI that Oswald had visited the Russian Embassy. Early in November, Hosty learned that Oswald was back in Dallas and living with Mrs. Ruth Paine in Irving, Texas. Hosty conducted a limited survey of the Paines, decided that she seemed trustworthy, went to see her, was told that Oswald had gone to work at the Book Depository, made sure it was not a sensitive industry and decided to let Oswald go for awhile.

So the FBI keeps a check on subscribers to the *Daily Worker*, it has ways of opening letters to the Fair Play for Cuba Committee, its underground informants keep an eye on Oswald, and the CIA reports to it when Americans visit the Russian Embassy. That seems to be surveillance quite intensive enough for a man who seems rather to have bored the FBI. For compelling reasons, I wish the FBI had gone farther with Oswald, but, in general, it would seem to me to have gone if anything too far with anyone else. I should think Mr. Justice Warren would normally find this sort of thing excessive. But for the moment he worries over whether our police methods are strong enough. In sum, he has given us an immense and almost indisputable statement for the prosecution.

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Sartre: Fragments of an Autobiography

by Jean Daniel

To get even the smallest glimpse into the private life of Jean-Paul Sartre, it has been necessary heretofore to await either the publication of a volume of Simone de Beauvoir's *Memoirs*, or one of Sartre's funeral orations for a departed friend. Simone de Beauvoir has provided us with an extensive account of her relations with Sartre as a student, so vivid in detail that the reader

The Words
by Jean-Paul Sartre
translated by Bernard Frechtman
(Braziller; $5)

feels as though he had actually been present at the awakening of Sartre's philosophical vocation and taste for romantic expression. Sartre himself has not been given to this sort of indiscretion save for an occasional preface, such as the particularly revealing one written for a book by Paul Nizan, or remarks made upon the death of certain friends, as in the case of the philosopher Merleau-Ponty, and Albert Camus. On these occasions Sartre has given freely of himself, with the incisive and moving lyricism of the apparently self-contained man.

In *The Words*, however, Sartre has come forward with the first fragments of an autobiographical work. And what fragments! They deal only with his early childhood, and describe – or purport to describe – how, at a very tender age, Sartre came alive in Jean-Paul through an instinct for high comedy which caused him to maintain an aloof and dispassionate attitude toward his middle-class family.

Knowing the importance which Sartre accords to psychoanalysis, the first question which comes to mind is whether the philosopher of existentialism, weary of countless misinterpretations has not at last decided to provide the true key to his personality. Was he really what he says he was? Is the deformed image which he projects when he describes himself in retrospect a sincere analysis? Or is this instead simply a literary work, with all the artificiality and creativeness of literature? Has he created out of whole cloth a figure of utmost and convincing reality, which is in no way related to the model? Such speculations inevitably come to mind throughout the reading of this compact, vivid, vehement, admirably constructed short book.

Sartre was born on June 21, 1905, the son of a naval officer father who died when Jean-Paul was only two years old, and of Anne-Marie Schweitzer, a cousin of Dr. Albert Schweitzer. Of his family Sartre writes with scarcely a trace of tenderness and without the slightest kindness. There is a manifest attempt to follow the tradition of Montaigne, Rousseau and André Gide by telling the truth unsoftened by any sentimentality. The eye which he turns upon his family is caustic, implacable, sometimes cruel. His view of the young Jean-Paul as seen within the bosom of that family is merciless, often masochistic. Here is the picture he gives us of his mother as a young girl:

> "Anne-Marie, the younger daughter, spent her childhood on a chair. She was taught to be bored, to sit up straight, to sew. She was gifted; the family thought it distinguished to leave her gifts undeveloped; she was radiant; they hid the fact from her. Those proud, modest bourgeois were of the opinion that beauty was beyond their means or below their station; it was all right for a marquise or a whore."

Obviously, Sartre could not have known his mother at the time; in this instance the litterateur has won out over the chronicler, a victory still more marked in the portrait of Jean-Paul's father and of the author's birth:

> "Jean-Baptiste wanted to prepare for the Naval Academy, to see the ocean. In 1904, at Cherbourg, the young naval officer, who was already wasting away with the fevers of Cochin China, made the acquaintance of Anne-Marie Schweitzer, took possession of the big, forlorn girl, married her, begot a child in quick time and sought refuge in death.
>
> "Dying is not easy. The intestinal fever rose without haste; there were abatements. Anne-Marie nursed him devotedly, but without carrying indecency to the point of loving him. Louise [her grandmother] had warned her about married life: after a blood wedding it was an infinite series of sacrifices broken by nocturnal crudities. Following her own mother's example, my mother preferred duty to pleasure. She had not known my father very well, either before or after marriage and must have wondered at times why that stranger had chosen to die in her arms. . . .
>
> "The death of Jean-Baptiste was the big event of my life: it sent my mother back to her chains and gave me freedom.
>
> "There is no good father, that's the rule. Don't lay the blame on men but on the bond of paternity, which is rotten. . . . Had my father lived, he would have lain on me at full length and would have crushed me. As luck had it, he died young. . . . I left behind me a young man who did not have time to be my father and

COMING

Robert Lowell: A British View

by John Wain

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who could now be my son. Was it a good thing or a bad? I don't know. But I readily subscribe to the verdict of an eminent psychoanalyst: I have no superego.

"Dying isn't everything; one must die in time. Later I would have felt guilty. A conscious orphan lays the blame on himself: shocked at the sight of him, his parents have gone off to their home in heaven. As for me, I was delighted. My sad situation commanded respect; I counted my bereavement as one of my virtues. My father had been so gallant as to die in the wrong: my grandmother kept repeating that he had shirked his duties. . . . Actually, my father's early demise had left me with a most incomplete Oedipus complex. No superego, granted. But no aggressiveness either. I knew nothing of violence and hatred. . . . Against whom, against what would I have rebelled? Never had someone else's whim claimed to be my law."

This particular excerpt is revealing not simply of the book, but of Sartre himself. In the first place, his joy in writing, his way with words enable him to express truisms, even trivialities, in a style so classically simple as to save him unfailingly from the pitfalls of commonplaceness and vulgarity. Then there is his marvelous ability to match his words precisely to the ideas and feelings expressed; and his trick of associating words in such a way as to create an association of ideas. The style would not be possible without his capacity for dispassionate self-appraisal, his ironical separation from Self, his contemptuous introspection. Nor would it be possible without his quality of *derision.* This he has carried within him since early childhood, when he learned to play out a comedy with his parents by misleading them, by feigning, by dissimilation. It was a quality which was part of him from the moment he discovered that any relationship with another is based on a kind of mutual, creative misconception. When he aligned himself with those who shared Heidegger's feeling of "dereliction" – man's feeling of having been simply tossed into the world – he could hardly fail to feel this same derision, a derision agonizingly born when a man is brought face to face with himself or when, as in the case of Camus, he is confronted with the absurdity of the world, and knows the non-existence of the absolute. It is the mordant humor that masks profound doubt. The first of Sartre's great works, *Nausea,* is a recital of total derision. But very soon thereafter, following his discovery of humanism and Communism, Sartre began to use derision as a weapon against a bourgeois philosophy or a capitalist regime. This was to a degree a positive kind of derision. Now, with *The Words,* doubt is once again cast on everything. We return to desperate lucidity, a translation from *Nausea* to *Being and Nothingness.* And yet, the style has so much health, vigor, technical optimism, that it creates a contradiction between mood and content. The writer, it appears, emerges from agony through analysis, and from derision through literary creation. Literature becomes an Absolute. The artist, coming to full flower, becomes the God whose existence the artist denies.

This, in my opinion, is the best clue to the great conflict which obsessed Jean-Paul Sartre. For ten years he questioned the value of literature, so that he could maintain his difficult, often tragic relations with the Communists. "One can do nothing with the Communists," he wrote, "yet in the world of today one can do nothing without them." Yet he suffered more than anyone from violent criticism by the French Communist Party. He was accused of having "deified" the laboring class, and there was some truth in the charge. He asks himself what value literary creation can have "in a society that is hungry"; sacrificing everything to literary creation is "a long, bitter-sweet folly." He means every word of – and yet, his doubts about literature are more felicitously phrased than ever.

In an interview in *Le Monde* last April, Sartre stated: "We are doom-ridden animals; the Universe remains a place of darkness. But I have suddenly discovered that the metaphysical ills of the world have been relegated to second place and have, indeed, become a luxury, in the face of man's segregation and exploitation of his fellow-man, and in the face of undernourishment in

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the world today. Hunger itself is a passing and remediable ill. I am convinced, and I deeply hope, that the economic and social ills of the world can be remedied."

Sartre believes this; he desires it. Nevertheless, the realities of active politics have eluded his immediate analyses. Admirable in polemics, he deceived himself as to the evolution of Communism, Stalinism, the Algerian War, Gaullism. He has always been on the "side of the underdog." Identifying himself with the oppressed, the exploited, the starving, he has always been ready to deny his education, his class, his very being. But through a sort of malediction, everyday politics has rewarded his attempts to understand it with ingratitude. There is a feeling of political as well as personal frustration in the disenchantment which permeates *The Words*. And so it is that literature takes its brilliant revenge on a man who believes he can be contemptuous of his literary gifts, gifts that are among the most marvelous ever bestowed upon any writer.

Misgivings about Miss Murdoch

by Honor Tracy

With every novel that she writes now Miss Murdoch seems to move a little further from the world of men and women, deeper into the realm of the abstract. Her people interest her not for themselves but for the ideas they embody, the moral dilemmas they face and the roles they play in the lives of others. "You are the assessor, the judge, the inspector, the liberator," ex-

The Italian Girl
by Iris Murdoch
(Viking; $4.50)

claims Isabel, exalted and tipsy, to her brother-in-law Edmund, a detached and ineffectual man who backs away from the prospect in alarm. It is a delightfully and intentionally comic little scene and yet we feel that Miss Murdoch may be laughing at herself as much as at anyone. Her pages teem with Victims, Avengers, Destroyers, who are often unconscious of their part and sometimes change it for one quite different. Situations do not arise naturally out of the character of individuals but are imposed on them, as if in accordance with a thesis; and we seem to hear the author addressing us even through their speech.

Lydia, the domineering mother of Edmund and Otto, has just died as the story opens. Edmund stands alone in the night, looking down at her body, remembering the havoc she wrought when alive, and reflects: "Of course, I had never really escaped from Lydia. Lydia had got inside me, into the depths of my being, there was no abyss and no darkness where she was not. She was my self-contempt. To say that I hated her was too flimsy a saying: only those will understand who have suffered this sort of possession by another." These are words of remarkable insight and perception, the words of one who has looked deep into himself and accepted what he saw. They do not come well from a timid and priggish man who entertains a variety of illusions about himself that only terrible happenings can dispel.

Otto is presented as a buffoon, a lecher, a soak, a hog, and in this form he is wholly convincing. Drunk, he bellows with laughter at the most solemn part of his mother's funeral. He continually tries, undeterred by continual failure, to interest Edmund in his ridiculous dreams. A fine comic passage describes him at a horrid meal, engulfing mountains of butter, biscuits and cheese and piles of herbs, mixed with weeds and caterpillars, that his own vast hands have torn from the earth. His wife rejects him, his daughter despises him, he is having an affair with a crazy Jewish nymphomaniac. It is something of a surprise, therefore, to find this tippling brawling wenching grotesque deliver himself of the remark that "It's not punishment, it's acceptance of death that alters the soul. That is God. And of course no organized

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religion will tolerate it." We must try to believe, too, that this oaf is humbly loved and admired by his Jewish apprentice David, and that means trying to believe as well that David, a febrile self-seeking neurotic, who has seduced both Otto's wife and his seventeen-year-old daughter, is capable of much love and humility.

It is true that disparate, even contradictory elements may exist together in one personality and it is natural that a writer as many-sided and as variously endowed as Miss Murdoch should be particularly aware of this fact. In real life we can accept the contradictions simply because the person *is* real and stands there with the coherence of actual being. Imaginary people lack this authority and if they are not somehow made credible to us we cannot take very much interest in their doings or in the author's purpose for them. It is hard, for example, to imagine a more pitiful thing than a child of seventeen, unadvised and unsupported, arranging as best she can with borrowed money for an abortion; and yet Flora's plight leaves us strangely unmoved, because like her seducer, David, she is too insubstantial a figure for her troubles to signify. The Italian Girl herself – the observing, suffering, waiting housekeeper Maggie – is drawn with sympathy and imaginative truth almost to the end, when here too an arbitrary touch of Grand Guignol throws the picture out of focus.

Imagination is a danger to the novelist if not controlled by knowledge and observation, and it may even degenerate altogether into the wayward fancifulness of a Ouida or an Amanda Ros. It may be pedantic to carp at Miss Murdoch's "camellia forest," growing in conditions where a single camellia could hardly survive, let alone rise to thirty feet; but this detail is indicative of a trend in her recent work disquieting to those who admired the splendid combination of solidity and brilliance, of realism and imagination, in *The Sandcastle* and *The Bell*. Why, we may wonder, did Miss Murdoch choose to set *The Unicorn* in Ireland, when she so plainly is not at home there? By doing so she added to the human improbabilities of the story all kinds of local and accidental ones. If she has decided that externals do not matter to her and that from now on she will write pure allegory, it surely would be logical to invent Dreamlands of her own for her background.

Extravagance appears to be creeping into the very language of this writer of beautiful prose. Otto's mouth "pullulated" in his face "like a live animal": in a house at night the "closed doors breathed a stupefaction of slumber": Isabel's "tiny musical laugh" came out of her "little mouth like a pear-drop." There are many fine moments in the book and the early scene with Edmund at Lydia's bier has the true Murdoch note, but all in all *The Italian Girl* is likely to rouse a good deal of misgiving among her admirers.

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Pop Literature of the Radical Right

by Bruce Galphin

It is no accident that the official campaign slogan, "In your heart, you know he's right," locates Senator Goldwater's appeal elsewhere than the mind. For what the senator essentially is offering is neither a choice nor an echo, but an emotional catharsis. This is perhaps the first campaign in which a Presidential candidate has patched together a coalition of emotional, rather than political, interests.

Even a coalition must have a common theme, though, and the Goldwater menage has this one: Something is wrong in America. Just what is wrong remains, like so many Goldwater articles of faith, ill-defined. "The people are disturbed," he ad-libbed in an Atlanta speech. "It's hard to put your finger on. . . . After a week or 10 days, I think I can pin it down." At the same time, supporters of the local GOP congressional candidate were circulating a handbill admonishing in big type: "Don't be afraid! . . . Strange forces are at work here and throughout the nation."

The theme is even more pronounced in the current pop literature of the radical right. "Have We All Gone Crazy?" asks the first chapter of John A. Stormer's *None Dare Call It Treason*. A chapter in Phyllis Schlafly's *A Choice Not an Echo* echoes "Who's Looney Now?" These two books, along with J. Evetts Haley's *A Texan Looks at Lyndon*, are by any standards best-sellers, each circulating in the millions. Even discounting their subsidization and free distribution by the thousands or even millions, their reception and impact are phenomenal.

Before looking specifically at these books, it is necessary to examine the emotional climate that prepares millions to be gullible converts. What is

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disturbing Americans?

To be sure, there are some valid causes for concern: Russia remains a vigorous antagonist; China is a growing and unpredictable force; the nuclear sword of Damocles still hangs over our heads; we have been thrust into world leadership, but the world doesn't always want to play follow the leader. At home, government and business alike grow in size; taxes and bills remain burdensome; the future seems to belong to "experts," and the individual comes to feel increasingly insignificant.

But these are manageable worries: despite them, America stands at a peak of prosperity and armed strength, and world tensions are less than they were a decade ago. Something far more fundamental and less tangible is bothering America. It appears to have something to do with a breakdown of material wealth as a yardstick of success. For most Americans, prosperity is here, but contrary to the advertised set of values, contentment does not naturally follow. Only vaguely is there an awareness that material goods have been merely a substitute for a more urgent psychic need: a need to learn compassion, concern for others and generosity of person; to communicate with fellow human beings.

"In your heart, you know he's right" really means "in your heart, you know you're wrong." It is the great irony of this campaign that those who are apparently most dissatisfied by the pursuit of material goods and selfishness are those most likely to flock to the candidates encouraging those goals.

The mind can deal with error in a number of ways. Most rationally, it can admit error and treat it realistically. But it is often less painful to shift the blame to someone or something else. Thus if things are not going well enough for the nation, it can't be because of our own mistakes or simply because conditions are beyond our control; someone must have "betrayed" us. Similarly for the individual: If things are not going my way, it's not because of personal failure or impotence, but because "enemies," "sinister forces," "secret kingmakers" or "Communists" are working against me. The villains may even be "science" or "the pace of modern life."

Sometimes the individual, subcon-

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sciously guilt-laden because of impulses he knows the society condemns, projects those unacceptable impulses onto others. Thus the white man may make his own tendencies toward violence and sexual promiscuity less burdensome by imputing them to Negroes; he may even thereby "justify" violence toward Negroes.

Or similarly, the paranoid may defend himself from guilt feelings with the belief that if he's "dirty," so is everyone else, particularly the leaders and standard-setters who might point fingers of shame at him.

I've made the digression because the appeal of the "something's wrong" line and the popularity of the three current right-wing best-sellers are otherwise incomprehensible.

All three dip into the thesis that Communists have infiltrated almost all areas of American life: government, the churches, schools and universities, psychiatry, communications, tax-exempt foundations and labor unions. But there the similarity ends; they differ widely in their cast of villains, their audiences and their analyses of what is troubling America. They present, in short, three separate portraits of discontent.

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John Stormer's *None Dare Call It Treason* has "sold" more than 2.5 million copies, the great majority in and since the Republican convention month of July. Among its early supporters was an "anonymous donor" who paid for enough copies to send 25 to each John Birch Society chapter. The Society continues to be its biggest booster, sometimes acting as official distributor. In bulk the 75-cent book sells for only 20 cents; untold copies are distributed free through the mails or doctors' or lawyers' offices.

Mr. Stormer concerns himself solely with the infiltration-and-conspiracy thesis. His Bad Guys are many and highly placed. His footnotes are numerous and impressive to the inexperienced reader, but, on examination, they prove to be unauthoritative, misleading and just plain dishonest. More than 100, for instance, cite the House Committee on Un-American Activities or the Senate Internal Security Subcommittee, making little or no distinction between unsupported testimony and official reports. Another 75 or so simply refer to "Congressional Record" or House or Senate "documents," giving no indication of their ultimate source.

Chapter III, for example, opens with an italicized quotation, attributed to Franklin Roosevelt, that "some of the best friends that I have got are Communists." But the "Congressional Record" citation turns out to be an insertion into the Record by former Rep. Harold Velde of a piece written by former Rep. Martin Dies, who attributes the statement to FDR.

About a hundred other footnotes cite books, pamphlets and periodicals of the Radical Right. The more one reads this literature, the more one becomes aware of the intellectual incest taking place: The first time a statement is made, it is not documented, but the more these writers quote each other, the more they build a spurious bank of documentation.

The National Committee for Civic Responsibility, after a thorough study of this book, concluded that it "is, at best, an incredibly poor job of research; and, at worst, a deliberate hoax and a fraud." The report detailed numerous instances in which the source cited proved the opposite of what Stormer asserted. For example, he refers to Robert Sherwood's *Roosevelt and Hopkins* to "establish" that in the conduct of World War II, "military decisions were made, not according to the tactical needs of the day or to capitalize on the weakness of the enemy, but for the long-range advantage of the Communist conspiracy." The book proves otherwise. (A clue to Mr. Stormer's misinterpretation may come from the fact that Robert Welch in *The Politician* makes a similar charge and refers to the same book.)

Haley's *A Texan Looks at Lyndon* is having far greater impact. Distribution is reputed to be as high as 7 million. Democratic Party officials say it is doing serious damage to the President in the rural South. Here is a villainy more readily comprehensible than the involved web of conspiracy spun by Stormer and Welch. There is just one Bad Guy, Lyndon Johnson: an egomaniac, stealer of elections, stalker of trapped deer, drunkard, coward, cringer before danger, traitor to the Southern cause. A former history professor, Haley could claim the best academic credentials of the three authors, but he is the least pedantic in style. His footnotes are rare, and then often used simply for asides. He starts on the firm ground of some fairly serious charges against the President, such as details of the 1948 senatorial primary and Mr. Johnson's business dealings; but he wanders off into the marshland of rumor, old grudges and unrelated Texas gossip.

Haley is by far the most talented of the three writers, but his is the skill of an experienced hatchet-job journalist. He is unembarrassed by inconsistency: President Kennedy was preparing to dump Johnson by exposing the Bobby Baker facts, and Kennedy was desperately trying to cover up on Billie Sol Estes; Lyndon was the tool of New Deal liberals, and he was the lackey of big business.

"A weary chronicler of history and a battered cowboy of the sunlit ranges of Texas," Haley is also the man who ran for governor in 1956 as an outspoken segregationist; who said that Chief Justice Warren should be hanged. He condemns the President for "authoritarianism" but says in his campaign against "leftist" textbooks: "The stressing of both sides of a controversy only

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confuses the young and encourages them to make snap judgments. . . . Until they are old enough to understand both sides of a question, they should be taught only the American side."

The only comic relief in this reading is *A Choice Not an Echo*, written as a preconvention argument for Goldwater but still being distributed by the millions, sometimes free.

Phyllis Schlafly's quarrel is with the Republican Establishment, "a small group of secret kingmakers" who have blocked nomination of Good Guys ever since 1936. Alas that the Populist party is gone, for her villains are utility companies, labor unions, Eastern financiers given to "elegant dinner parties . . . with a liveried lackey to wait on each guest" – and smut and intellectuals. She is shocked at the presidential award to Edmund Wilson, who has had four wives and is "the author of a book so immoral that, even under our contemporary standards, its sale had to be stopped in many places." But the tide is running with the author now. Her man is nominated, and "... most of those who had stolen the Republican nomination for Eisenhower departed involuntarily from the political scene ... Henry Cabot Lodge . . . Sherman Adams ... Oveta Culp Hobby ... Herbert Brownell." The ultimate ignominy was suffered by Paul Hoffman, who "failed in his efforts to keep the American Studebaker plants operating and finally married a liberal Democrat, Anna Rosenberg."

The author notes with scorn that *Life* magazine attacked Barry Goldwater "because he has one-sentence solutions for national problems. According to this peculiar line of egghead reasoning, present day problems are so complex that we must have sophisticated – not simple – solutions. Contrary to this argument, civilization progresses, freedom is won and problems are solved because we have wonderful people who think up simple solutions. . . . The man who did as much as anyone to emancipate women from their daily drudgery was the inventor of the sewing machine. His invention depended on a very simple idea; just put the eye of the needle in the point instead of in the other end."

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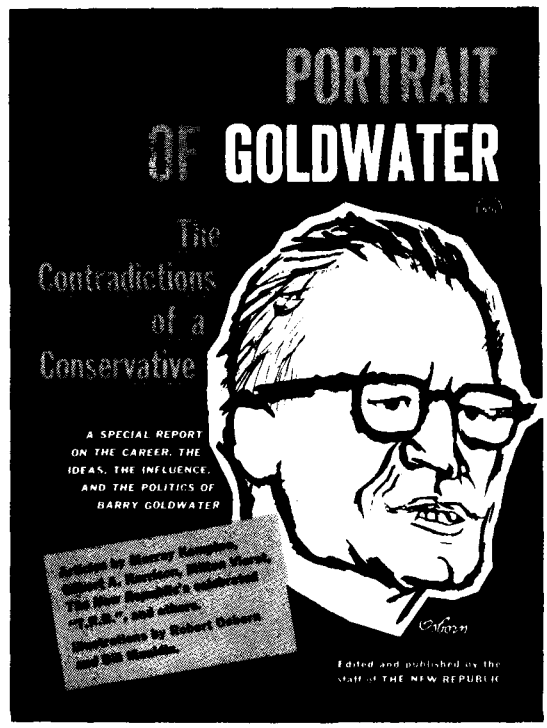
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FILMS

A Vote for the Sweet Parade

There is a story about Marilyn Monroe which I did not hear until some evenings ago after seeing *A Hard Day's Night*, the Beatles' movie. The story goes that in May of 1962, Miss Monroe flew off from her movie set to a celebration of President Kennedy's birthday where she stood up before the gathered dignitaries in a wildly revealing gown and sang "Happy Birthday to You."

A Hard Day's Night
(United Artists)

The President, it is said, rose to thank her with a few words which expressed spontaneous, unpatronizing pleasure. His tribute came as that of one professional to another; the profession they shared was the art of throw-away charm. With Marilyn that meant singing a hackneyed song in a mediocre voice with no bow to The Occasion except as her own desire directed. For mysterious reasons, she triumphed. As for Kennedy, it is the most appealing story I ever heard about him. Both, of course, were dead within a year-and-a-half of that evening, and considerably before their time.

All this has quite a lot to do with the magic of *A Hard Day's Night*, whose surprised enthusiasts range within my own acquaintance from a university professor in his fifties to an impoverished young poet; more publicly, from Bosley Crowther of *The New York Times* to Andrew Sarris in *The Village Voice*. There has been much talk about the cleverness of the movie as movie: the fast-paced cutting of Beatles on the run from squealing fans; the surreal lyricism of a scene in which the Beatles race and tumble on an empty field. The film has also been called funny, but both the dialogue and situation humor often seem rather sophomoric, and of the slapstick there is only one soaring moment. The Beatles surely have energy; yet much of the time they are just pooping off: grinning at girls, reading, drifting through a press conference. Their singing as singing remains quite resistible. They aren't particularly outrageous; the only time they declare war is on a Stuffy Englishman in the train compartment. The Beatles aren't even very colorful, and the film makes no great fuss over the Liverpool slang or speech funniness with which John Lennon did such wonders in a little book called *In His Own Write*. Sometimes they faintly suggest Long Distance Runners or Saturday Night freedom-fighters, but on the whole they stand quite outside the familiar English film scene – and any other.

The beauty of the film lies in its integrity, an integrity based upon the Beatles as individuals and as a collective, and it is no insult to the director, Richard Lester, or to the writer, Alun Owen, to say that in a sense *A Hard Day's Night* isn't really a movie. Unlike the usual musical, with its synthetic story line on which song numbers are artificially strung, this almost plotless film builds exclusively on the Beatles themselves set against a background of their professional world. If you don't fall in love with *them*, the film seems a dead loss, but not to do so requires indifference to an astonishing charm.

A Hard Day's Night slips away again and again into paradoxes. Here are four successful young men who suggest a nostalgia for their own youth; who are obvious professionals and have made the most anti-professional of films. They poke fun at their own myth and move with deep self-respect. Their eyes can be hard and Mod-like, then newborn, and both images are true. They are brassy yet sacrificial. Ringo, with his big nose and eyes too close-set, is ugly but not ugly: in fact, noble. When he smiles above his drums, you *know* he is happy while half-feeling that you shouldn't believe in it. There is simply nothing fishy about them, ever. They have more built-in style on the screen than anybody since Marilyn Monroe, the only star who could have made a movie with them.

I suppose I am saying that they are cool, in the best sense of the word. Ringo ventures closest to straight emotion, but his pathos is played down too. In one sequence, Paul's querulous grandfather, who travels with the group, tells Ringo that he is unappreciated as the drummer, that he should enjoy life while he can instead of reading books.

"Books are good," Ringo retorts.

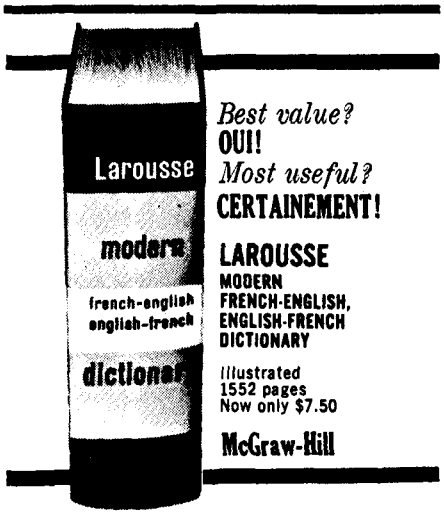
"Parading's better," the grandfather counters.

"Parading?"

"That's it – parading the streets, trailing your coat, bowling along and living!"

And Ringo's off to stroll around in a baggy second-hand coat and cap which he picks up en route, snapping photos like a tourist, laying down the coat over one small mud-puddle after another for a passing blonde who smiles sweetly each time and then falls into a huge hole. He chats with a 10-year-old rebel, then leaves the boy to his three friends on the river-bank in a quick image which implies a longing in Ringo now for his own buddies.

Ringo, with a bit of Harpo and a bit of Chaplin in him, contains polarities of funny-sad; the others are less firmly delineated. All four have a grave air much of the time. That mild solemnity is one of the qualities which make the



STANLEY KAUFFMANN, *film critic of* The New Republic, *is touring in Europe. His regular column will be resumed later this month.*

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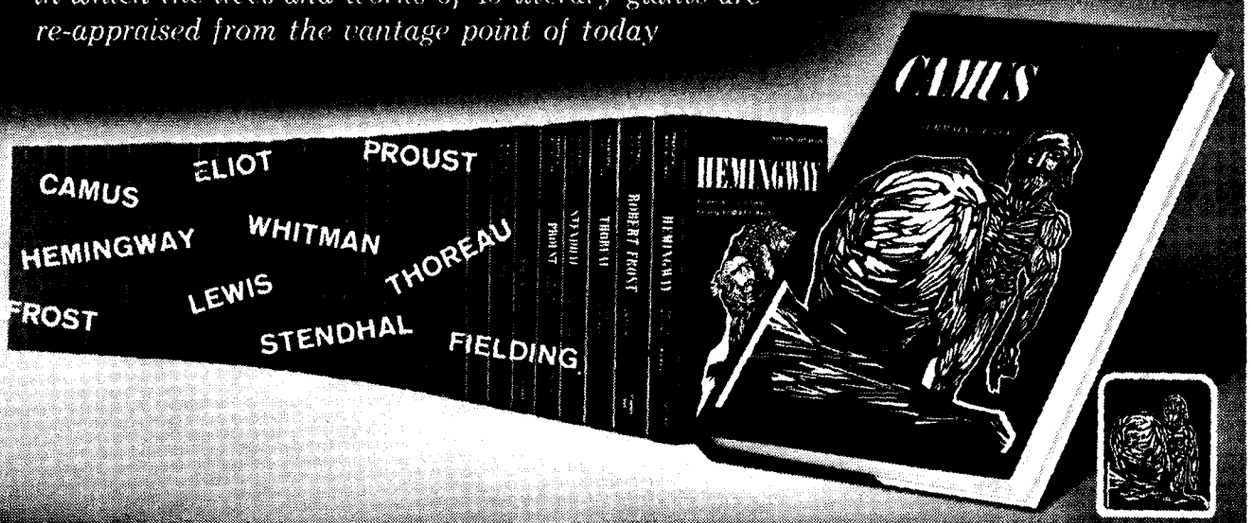

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Beatles collective and even hard to distinguish at moments, especially on a first viewing. The cherubic openness of Paul (McCartney), the elder-statesmanship of John (Lennon), the handsomely enigmatic George (Harrison), and dreamer Ringo Starr: these individualities are revealed, then veiled by the mass, then seen again. And the differences themselves seem to change hands. Nobody ever failed to tell the Marx Brothers apart but the Beatles belong to the 1960's. The end of the film is a carousel of quick close-ups in which smiles and frowns, funny faces and sad ones, parts of faces and whole ones, come whirling off the screen. Individuality blurs and each Beatle becomes his brother.

The final effect of these images is a kind of vulnerability. Musical insects, as the New York policeman said, who know they could be stamped out tonight. There is one sub-teenage girl in the audience of their final performance who weeps quietly, and it seems to be more from an appreciation of their hidden effort to please, from a sense of shared tenuousness, than the relief of some pseudo-orgasm. The girls are not hysterically receiving, but moved by a desire to communicate which has nowhere else to go with impunity. They wave to the Beatles as much as they scream. And the Beatles are so physically still on stage in this film, so unsexy, that when one of them suddenly moves from his microphone to stand next to another, the action becomes a reciprocal communicating – a kind of fraternalness. Offstage, the Beatles show a remarkable feel for every person who crosses their path: they look, and they react.

The Beatles defy death, not age – especially death by technology, the same technology which has made them famous. The climax of their film cuts back and forth between Ringo trying to prolong his parade and the show-designer stewing in his studio as the time draws near for the group to go on. This juxtaposition is nothing so simple as the individual versus the machine, or society. Ringo's return doesn't become a surrender but a new parade, and when the Beatles finally begin their show, which we see on the television screens too, they *are* the medium – not its midgets.

This same kind of triumph comes through in the Maysles Brothers' documentary about the Beatles in America, *What's Happening*. On the train taking them from New York to Washington, Ringo in cap and coat again slings over his shoulders all the cameras of the news photographers in their car and models them, up and down the aisle, waving one of the cameras at the audience in a parody of his own world.

You can say that the Beatles stand for a style based on not pushing, not fighting their lives but moving autonomously through and with them: the trains, the limousines, the microphones, the gray city streets, the slummy yards, all the unbeautiful. In an age when our comedy has become hysterical, our surrealism too real, they will not try too hard to be funny or angry or poetic. The closest thing recently to their relaxed irreverence and humor was Rosalyn Drexler's off-Broadway musical, *Home Movies*, though the Beatles' pacing is steadier. I may be making them sound too much like wry skeptics who have made the best of things with a certain flair, which would leave us with little more than the sentimentality of excessive civilization, and the Beatles are too various, too happy, too untired for that. This is, of course, the movie Beatles and not the real ones – who could be cads, fools or Communists for all I know, though the odds seem against it.

The strangest thing of all is that one can feel the same love for this minor entertainment picture as for a large-scale social film like *The Organizer*. The reason, I think, is something as simple-minded as that both restore value to human life without falsifying it. The Beatles are not overtly concerned, but the aliveness and curiosity they project leave the door open. Not one of our modern-agony writers and artists, on the other hand, saw fit to go to Mississippi last summer although they must have suspected that they would find among the Negroes and white civil rights workers there the greatest concentration of moral beauty in America today – surely something for a new vision?

For that matter, one can find social comment in this film but it is flipped out as casually as everything else. When the Beatles are chased away from the enormous field where they have been running, somersaulting and square-dancing, it is by a loutish caretaker (not the easier cop, colonel, or rich man) who fumes, "This is private property!" I think it's George who replies meekly, "Sorry to mess up your field, sir."

A recent newspaper article quoted George Harrison as saying, "We don't set examples for people" when asked why they hadn't refrained from smoking in the film. But they cheat on this dictum in small, quiet ways, among them the use of the word "clean" as a running joke. Paul's lecherous and rather repulsive grandfather is repeatedly referred to as "very clean" or "a clean old man." The word stands for an idea which has to do with not being petty and closed, with not having a slum of a soul. The old man is clean because being lascivious doesn't, to the Beatles, mean evil, and they use the phrase in deliberate opposition to the "dirty old man" which would conventionally describe him. Clean is human, clean is alive, clean gives back meaning to nice. *A Hard Day's Night* floats above despair and alienation without ever challenging them head-on, but also without ignoring them.

ELIZABETH SUTHERLAND

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NOTES ON CONTRIBUTORS

Jean Daniel *is a veteran Parisian journalist.* Honor Tracy's *book* Spanish Leaves *will be published this month.* Bruce Galphin *is on the staff of* The Atlanta Constitution. Elizabeth Sutherland *has edited several books on films.*

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Correspondence

The Kennedy-Keating Campaign

Sirs:

May I comment on some of the points in the letters on the Kennedy-Keating compaign reprinted in your issue of October 3?

One of the writers describes Senator Keating as "a genuine liberal, with an excellent record." Senator Keating is an amiable gentleman; but a glance at his Congressional career shows that, when he had a conservative constituency as a member of the House of Representatives, he voted with the conservative Republicans, and, now that he has a liberal constituency, he votes with Senator Javits. Even in his 'liberal' phase, Senator Keating is identified with no national issue, except Cuba; and recently, as in his astonishing charge that Mr. Kennedy made a deal with Nazis in disposing of General Aniline, he has shown disturbing tendencies to revert to the Keating of the House.

Some of your writers seem to regard his refusal to endorse Barry Goldwater as an act of transcendent moral heroism. But surely, Senator Keating, if he had endorsed Goldwater, would be politically dead in a state like New York. His silence about Goldwater is only the most minimal injunction of self-preservation. One remembers the liberal Republicans of past years who courageously rejected their party when it nominated men like William Howard Taft and Herbert Hoover, both far more reasonable men than Goldwater, and then wonders at seeing liberals today faint with excitement over the moral triumph of *silence* in the face of the most reactionary candidate for President nominated by either major party in this century.

Few seem much impressed by the residence point, and rightly so. The Constitution was written in a day when the states of the union were far more remote from each other than they are today; yet all it stipulated was that a Senator shall, "when elected, be an inhabitant of that State in which he shall be chosen." It would be odd for a generation living in the age of television and jet aircraft to add residential restrictions which the Founders did not deem necessary.

But most of the objections seem in the end to come to the character of Robert Kennedy. He is attacked as one whose "ruthless ambition . . . knows no bounds," "basically anti-libertarian," a McCarthyite, etc. I must testify in the strongest possible language that this stereotype bears no resemblance at all to the Robert Kennedy whom the liberals of the Kennedy Administration found their strong and faithful ally (and, on many occasions, leader) in the policy debates of 1961-63 both in domestic and foreign affairs. It is incomprehensible to me how any liberal can possibly prefer Senator Keating's jingoism on Cuba to Mr. Kennedy's record in the Cuban missile crisis (when he blocked the proposal for a sneak air attack against the missile bases) and to his powerful support for the Alliance for Progress – or Senator Keating's stubborn commitment to the Cold War to Mr. Kennedy's tireless efforts to strengthen relations with uncommitted nations and to break down the Iron Curtain.

I despair of persuading those who have hopelessly committed themselves to the devil theory of Robert Kennedy. I can only remind them that many of them were saying exactly the same things about his brother in 1959-60. Events, I believe, convinced them once that they were wrong, and I am sure that events will convince them again; but how many times do we all have to go through this experience?

Arthur Schlesinger Jr.
Washington, D. C.

Speaking of Extremists

Sirs:

William K. Wyant, Jr., in his article "Speaking of Extremists" (September 19) was a bit too charitable when he stated in his opening paragraph that "Except for the insignificant American Nazi Party . . . groups on the Far Right profess to have no taint of anti-Semitism or racism." My encounter with but one Far Right group, the John Birch Society, suggests otherwise. I've attended a number of "cell" meetings over the past two years, but one meeting I attended (in Los Angeles) about a year ago stands out as an instance of outright anti-Semitic indoctrination.

The meeting opened with the pledge to the flag, one minute of "Patriotic Silent Prayer" and the announcement of the evening's agenda. Tackled were the usual subjects of the UN, the Supreme Court (described by the discussion leader as "those nine senile old men in their black nighties"), the "mess" in the Congo, etc. The "regular" agenda having been disposed of, the discussion leader adjourned the meeting *but* invited all those present to remain to hear a "magnificent tape recording" that had "electrified Patriots" across the land. He made it quite clear that the "official" meeting of the JBS chapter was over but that all were welcome to stay to listen to the tape. Needless to say no one left. Refreshments were served with apologies for the "red" Boysenberry juice. Then came the tape and "electrifying" it was. For a little over

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an hour and a half I was subjected to the most vicious, the most rabid anti-Semitic harangue I had ever heard. The tape dealt with over 2,000 years of history and practically blamed the Jews for the creation itself. The speaker, a "converted Jew," spilled the beans about the Jewish "race" and its "plot against all of mankind." The Jews were responsible for World Wars I and II and were now diligently pushing the two major powers – which they controlled as well (?) – "towards W.W. III so that they could pick up the remains and rule the world." As for the faithful assembled? They were being "educated" and loved every minute of it. I am sure that everyone of them went home that night confident that they had struck a blow against "Communism" by learning who their "real" enemies were.

It made me ill to think of what was going on in this country in the name of "Patriotism" and "anti-Communism."

Kurt Friedberg
Los Angeles, California

Integration in New York

Sirs:

As one who is generally an admirer of Murray Kempton, I was rather disappointed in his article on the New York school boycott (September 26).

Most of the New Yorkers who live in lower middle class areas of Brooklyn and Queens are but one generation (or less) removed from relative poverty themselves. They have abided by the rules of the culture, worked hard, saved, etc., and they have, often at some sacrifice, finally managed to locate in neighborhoods which they feel will offer advantages to their children which they lacked. In many cases they fled from areas in which schools were "changing," and in which the influx of deprived Negro children from slum backgrounds meant a breakdown of school discipline, an increase in violence and a decrease in the efficacy of teaching. Now they are told, in effect, often by people who are not directly affected, that as a result of pressures applied by the civil rights movement they must send their children into neighborhoods some of which appear to be very similar to the ones they fled or face school situations which they fear may be similar to those they faced in those neighborhoods.

The New York Times reported the reactions of Negro parents to the pairing. Many of them expressed the hope that their children would now be sent to schools in which the teachers could *control* the classes and *teach*. This is the hope of Negro parents. The fear of many white parents, of course, is that the newly integrated school will come to resemble the old slum school. Under such circumstances it is to be expected that feelings of hostility will develop and that people will say and do things which they might not otherwise.

Of course those of us who read *The New Republic* know that the "culture of poverty" which characterizes the Negro ghetto and, in general, the whole problem of race relations in this country will not be solved unless steps such as pairing are taken *now*. However, this does not help those who feel that they may have to pay the price even if (and we have increasing evidence that this is so) they no longer believe that Negroes are inherently inferior. I must add, in this connection, though it is perhaps unkind to do so, that too many *New Republic* readers I know who live on Manhattan's West Side are in favor of pairing in Queens but send *their* children to private schools. I should also add that many of the same parents who supported the boycott have not been at all upset by the presence of middle class Negro children in neighborhood schools or even relatively large numbers of slum children. It is only when the "tipping" point is reached, *i.e.*, when these parents begin to fear that the "sub-culture" of the slums will become the culture of the school, that they are really frightened.

The point is that the problem is both a race and class problem, and unless this issue is faced by humane and responsible journals like *The New Republic*, all the moralizing in the world is not going to accomplish a single thing. In fact it may have the negative result of creating a wide gap between intellectuals and the general population.

Stanley Rothman
Department of Government
Smith College

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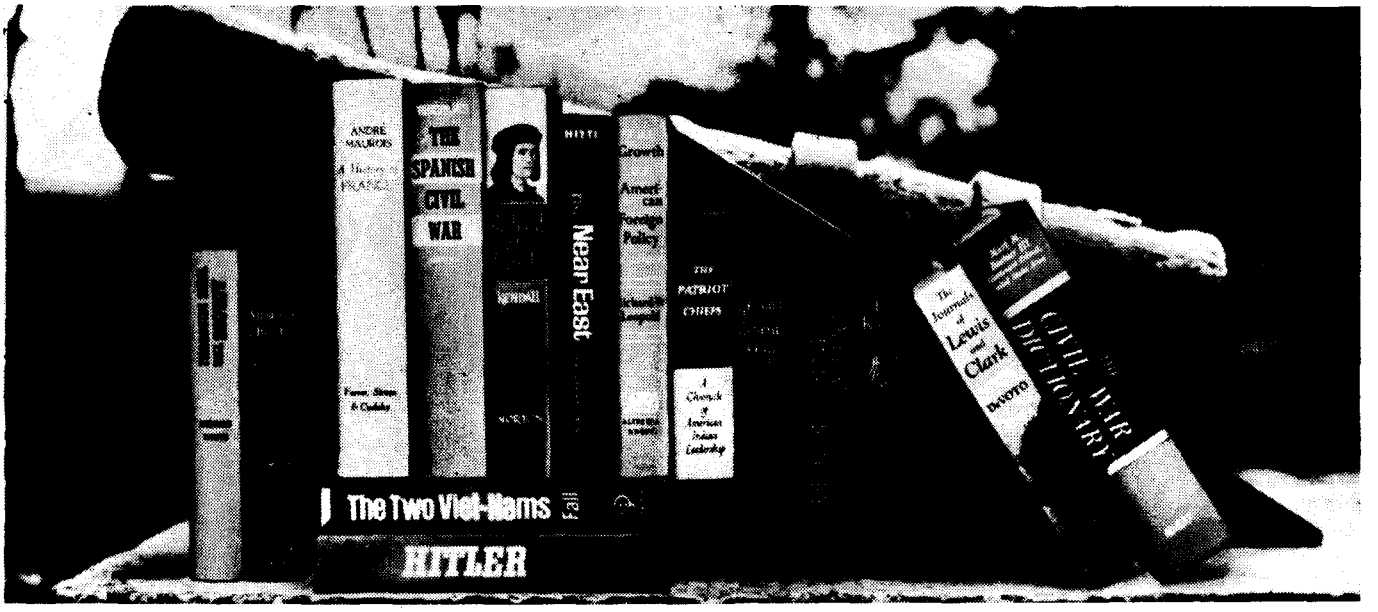

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